

Form **990****Return of Organization Exempt From Income Tax**

OMB No 1545-0047

2007Department of the Treasury
Internal Revenue Service

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

▶ The organization may have to use a copy of this return to satisfy state reporting requirements

Open to Public
Inspection**A** For the 2007 calendar year, or tax year beginning **JUL 1, 2007** and ending **JUN 30, 2008**

B Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Termination <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	Please use IRS label or print or type. See Specific Instructions.	C Name of organization INSTITUTE FOR JUSTICE		D Employer identification number 52-1744337
		Number and street (or P O box if mail is not delivered to street address) Room/suite 901 NORTH GLEBE ROAD		E Telephone number 703-682-9320
		City or town, state or country, and ZIP + 4 ARLINGTON, VA 22203		F Accounting method <input type="checkbox"/> Cash <input checked="" type="checkbox"/> Accrual <input type="checkbox"/> Other (specify) ▶
		• Section 501(c)(3) organizations and 4947(a)(1) nonexempt charitable trusts must attach a completed Schedule A (Form 990 or 990-EZ)		

G Website: ▶ **WWW.IJ.ORG****J** Organization type (check only one) ▶ ☒ 501(c) (3) ◀ (insert no) ☐ 4947(a)(1) or ☐ 527**K** Check here ☐ if the organization is not a 509(a)(3) supporting organization and its gross receipts are normally not more than \$25,000. A return is not required, but if the organization chooses to file a return, be sure to file a complete return.**H** and **I** are not applicable to section 527 organizations**H(a)** Is this a group return for affiliates? ☐ Yes ☒ No**H(b)** If "Yes," enter number of affiliates ▶ **N/A****H(c)** Are all affiliates included? **N/A** ☐ Yes ☐ No (If "No," attach a list)**H(d)** Is this a separate return filed by an organization covered by a group ruling? ☐ Yes ☒ No**I** Group Exemption Number ▶ **N/A****M** Check ☐ if the organization is not required to attach Sch. B (Form 990, 990-EZ, or 990-PF)**L** Gross receipts. Add lines 6b, 8b, 9b, and 10b to line 12 ▶ **11,386,246.****Part 1 Revenue, Expenses, and Changes in Net Assets or Fund Balances**

Revenue	1 Contributions, gifts, grants, and similar amounts received				
	a Contributions to donor advised funds	1a			
	b Direct public support (not included on line 1a)	1b		8,986,386.	
	c Indirect public support (not included on line 1a)	1c			
	d Government contributions (grants) (not included on line 1a)	1d			
	e Total (add lines 1a through 1d) (cash \$ 8,986,386. noncash \$)		1e		8,986,386.
	2 Program service revenue including government fees and contracts (from Part VII, line 93)		2		544,041.
	3 Membership dues and assessments		3		
	4 Interest on savings and temporary cash investments		4		373,997.
	5 Dividends and interest from securities		5		
	6a Gross rents SEE STATEMENT 1	6a		108,176.	
	b Less rental expenses	6b			
c Net rental income or (loss). Subtract line 6b from line 6a		6c		108,176.	
7 Other investment income (describe ▶)		7			
Expenses	8a Gross amount from sales of assets other than inventory	(A) Securities		(B) Other	
		1,373,646.	8a		
	b Less cost or other basis and sales expenses		1,373,288.	8b	
	c Gain or (loss) (attach schedule)		358.	8c	
	d Net gain or (loss). Combine line 8c, columns (A) and (B) STMT 2				8d
					358.
	9 Special events and activities (attach schedule). If any amount is from gaming, check here <input type="checkbox"/>				
	a Gross revenue (not including \$ of contributions reported on line 1b)	9a			
	b Less direct expenses other than fundraising expenses	9b			
	c Net income or (loss) from special events. Subtract line 9b from line 9a				9c
	10a Gross sales of inventory, less returns and allowances	10a			
	b Less cost of goods sold	10b			
c Gross profit or (loss) from sales of inventory (attach schedule). Subtract line 10b from line 10a				10c	
11 Other revenue (from Part VII, line 103)		11			
12 Total revenue. Add lines 1e, 2, 3, 4, 5, 6c, 7, 8d, 9c, 10c, and 11		12		10,012,958.	
Net Assets	13 Program services (from line 44, column (B))		13		7,035,303.
	14 Management and general (from line 44, column (C))		14		1,034,754.
	15 Fundraising (from line 44, column (D))		15		875,985.
	16 Payments to affiliates (attach schedule)		16		
	17 Total expenses. Add lines 16 and 44, column (A)		17		8,946,042.
	18 Excess or (deficit) for the year. Subtract line 17 from line 12		18		1,066,916.
19 Net assets or fund balances at beginning of year (from line 73, column (A))		19		16,887,498.	
20 Other changes in net assets or fund balances (attach explanation) SEE STATEMENT 3		20		<1,890,033.>	
21 Net assets or fund balances at end of year. Combine lines 18, 19, and 20		21		16,064,381.	

723001
12-27-07

LHA For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions.

Form 990 (2007)

10 G17

Part II Statement of Functional Expenses

All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (4) organizations and section 4947(a)(1) nonexempt charitable trusts but optional for others.

Do not include amounts reported on line 6b, 8b, 9b, 10b, or 16 of Part I	(A) Total	(B) Program services	(C) Management and general	(D) Fundraising
22a Grants paid from donor advised funds (attach schedule) (cash \$ <u>0</u> • noncash \$ <u>0</u> .) If this amount includes foreign grants, check here <input type="checkbox"/>				
22b Other grants and allocations (attach schedule) (cash \$ <u>0</u> • noncash \$ <u>0</u> .) If this amount includes foreign grants, check here <input type="checkbox"/>				
23 Specific assistance to individuals (attach schedule)				
24 Benefits paid to or for members (attach schedule)				
25a Compensation of current officers, directors, key employees, etc. listed in Part V-A	712,355.	593,003.	69,173.	50,179.
b Compensation of former officers, directors, key employees, etc. listed in Part V-B	0.	0.	0.	0.
c Compensation and other distributions, not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)				
26 Salaries and wages of employees not included on lines 25a, b, and c	3,864,552.	3,217,062.	375,269.	272,221.
27 Pension plan contributions not included on lines 25a, b, and c	285,309.	207,685.	54,377.	23,247.
28 Employee benefits not included on lines 25a - 27	626,302.	491,860.	88,916.	45,526.
29 Payroll taxes				
30 Professional fundraising fees	17,022.			17,022.
31 Accounting fees	51,790.		51,790.	
32 Legal fees	217,583.	210,290.		7,293.
33 Supplies	85,395.	44,492.	18,793.	22,110.
34 Telephone	120,760.	95,095.	17,473.	8,192.
35 Postage and shipping	209,570.	91,978.	5,790.	111,802.
36 Occupancy	822,253.	639,294.	111,815.	71,144.
37 Equipment rental and maintenance	64,342.	14,938.	48,738.	666.
38 Printing and publications	359,168.	218,389.	7,577.	133,202.
39 Travel	365,299.	316,086.	28,678.	20,535.
40 Conferences, conventions, and meetings	114,384.	111,585.	2,285.	514.
41 Interest	3,996.		3,996.	
42 Depreciation, depletion, etc. (attach schedule)	350,569.	274,009.	47,070.	29,490.
43 Other expenses not covered above (itemize):				
a PROFESSIONAL DUES/CLE				
b FEES	51,604.	41,349.	1,968.	8,287.
c MISCELLANEOUS	150,188.	42,152.	71,258.	36,778.
d CONTRACTORS	369,852.	336,946.	15,741.	17,165.
e INSURANCE	63,655.	48,996.	14,047.	612.
f TRANSCRIPTS & COURT				
g REPORTERS	40,094.	40,094.		
44 Total functional expenses. Add lines 22a through 43g (Organizations completing columns (B)-(D), carry these totals to lines 13-15)	8,946,042.	7,035,303.	1,034,754.	875,985.

Joint Costs. Check ☐ if you are following SOP 98-2.

Are any joint costs from a combined educational campaign and fundraising solicitation reported in (B) Program services?

Yes ☐ No ☒If "Yes," enter (i) the aggregate amount of these joint costs \$ N/A, (ii) the amount allocated to Program services \$ N/A,(iii) the amount allocated to Management and general \$ N/A, and (iv) the amount allocated to Fundraising \$ N/A

Part III Statement of Program Service Accomplishments (See the instructions)

Form 990 is available for public inspection and, for some people, serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes, in Part III, the organization's programs and accomplishments.

What is the organization's primary exempt purpose? ► **SEE STATEMENT 4**

All organizations must describe their exempt purpose achievements in a clear and concise manner. State the number of clients served, publications issued, etc. Discuss achievements that are not measurable (Section 501(c)(3) and (4) organizations and 4947(a)(1) nonexempt charitable trusts must also enter the amount of grants and allocations to others.)

Program Service Expenses
(Required for 501(c)(3) and (4) orgs, and 4947(a)(1) trusts, but optional for others)

a TO PROTECT THE CONSTITUTIONAL RIGHTS OF AMERICANS THROUGH LITIGATION; EDUCATE THE PUBLIC ABOUT ISSUES VITAL TO LIBERTY THROUGH MEDIA RELATIONS AND OUTREACH EVENTS; TRAIN LAWYERS AND STUDENTS TO PRESERVE CIVIL LIBERTIES.

(Grants and allocations \$) If this amount includes foreign grants, check here ► ☐

7,035,303.

b

(Grants and allocations \$) If this amount includes foreign grants, check here ► ☐

c

(Grants and allocations \$) If this amount includes foreign grants, check here ► ☐

d

(Grants and allocations \$) If this amount includes foreign grants, check here ► ☐

e Other program services (attach schedule)

(Grants and allocations \$) If this amount includes foreign grants, check here ► ☐

f Total of Program Service Expenses (should equal line 44, column (B), Program services)

7,035,303.

Form 990 (2007)

Part IV Balance Sheets (See the instructions)

Note: Where required, attached schedules and amounts within the description column should be for end-of-year amounts only

		(A) Beginning of year	(B) End of year
Assets	45 Cash - non-interest-bearing	670,662.	45 2,201.
	46 Savings and temporary cash investments		46 81,864.
	47 a Accounts receivable	47a 55,077.	
	b Less: allowance for doubtful accounts	47b	47c 55,077.
	48 a Pledges receivable	48a 376,400.	
	b Less: allowance for doubtful accounts	48b	48c 376,400.
	49 Grants receivable		49
	50 a Receivables from current and former officers, directors, trustees, and key employees		50a
	b Receivables from other disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)		50b
	51 a Other notes and loans receivable	51a	51c
	b Less: allowance for doubtful accounts	51b	
	52 Inventories for sale or use		52
	53 Prepaid expenses and deferred charges	141,010.	53 117,482.
	54 a Investments - publicly-traded securities STMT 7 <input type="checkbox"/> Cost <input checked="" type="checkbox"/> FMV	14,811,831.	54a 14,884,567.
	b Investments - other securities <input type="checkbox"/> Cost <input type="checkbox"/> FMV		54b
55 a Investments - land, buildings, and equipment: basis	55a		
b Less: accumulated depreciation	55b	55c	
56 Investments - other		56	
57 a Land, buildings, and equipment: basis	57a 2,049,021.		
b Less: accumulated depreciation STMT 5	57b 1,049,050.	57c 999,971.	
58 Other assets, including program-related investments (describe ► <u>DEPOSITS</u>)	0.	58 25,554.	
59 Total assets (must equal line 74). Add lines 45 through 58	17,274,694.	59 16,543,116.	
Liabilities	60 Accounts payable and accrued expenses	222,906.	60 266,889.
	61 Grants payable		61
	62 Deferred revenue		62
	63 Loans from officers, directors, trustees, and key employees		63
	64 a Tax-exempt bond liabilities		64a
	b Mortgages and other notes payable		64b
	65 Other liabilities (describe ► <u>SEE STATEMENT 6</u>)	164,290.	65 211,846.
66 Total liabilities. Add lines 60 through 65	387,196.	66 478,735.	
Net Assets or Fund Balances	Organizations that follow SFAS 117, check here <input checked="" type="checkbox"/> and complete lines 67 through 69 and lines 73 and 74.		
	67 Unrestricted	15,344,194.	67 14,294,365.
	68 Temporarily restricted	1,543,304.	68 1,770,016.
	69 Permanently restricted		69
	Organizations that do not follow SFAS 117, check here <input type="checkbox"/> and complete lines 70 through 74.		
	70 Capital stock, trust principal, or current funds		70
	71 Paid-in or capital surplus, or land, building, and equipment fund		71
	72 Retained earnings, endowment, accumulated income, or other funds		72
	73 Total net assets or fund balances. Add lines 67 through 69 or lines 70 through 72 (Column (A) must equal line 19 and column (B) must equal line 21)	16,887,498.	73 16,064,381.
	74 Total liabilities and net assets/fund balances. Add lines 66 and 73	17,274,694.	74 16,543,116.

instructions)

Part IV-B		Reconciliation of Expenses per Audited Financial Statements With Expenses per Return
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Part V-A **Current Officers, Directors, Trustees, and Key Employees** (List each person who was an officer, director, trustee, or key employee at any time during the year even if they were not compensated) (See the instructions)

Form **990** (2007)

Part V-A, Current Officers, Directors, Trustees, and Key Employees (continued)

	Yes	No
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- 75 a** Enter the total number of officers, directors, and trustees permitted to vote on organization business at board meetings ▶ _____ 1
- b** Are any officers, directors, trustees, or key employees listed in Form 990, Part V-A, or highest compensated employees listed in Schedule A, Part I, or highest compensated professional and other independent contractors listed in Schedule A, Part II-A or II-B, related to each other through family or business relationships? If "Yes," attach a statement that identifies the individuals and explains the relationship(s) **SEE STATEMENT 9**
- c** Do any officers, directors, trustees, or key employees listed in Form 990, Part V-A, or highest compensated employees listed in Schedule A, Part I, or highest compensated professional and other independent contractors listed in Schedule A, Part II-A or II-B, receive compensation from any other organizations, whether tax exempt or taxable, that are related to the organization? See the instructions for the definition of "related organization "
- If "Yes," attach a statement that includes the information described in the instructions.
- d** Does the organization have a written conflict of interest policy?

75b	X
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75c

75d	X
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Part V-B	Former Officers, Directors, Trustees, and Key Employees That Received Compensation or Other
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Benefits (If any former officer, director, trustee, or key employee received compensation or other benefits (described below) during the year, list that person below and enter the amount of compensation or other benefits in the appropriate column. See the instructions.)

(A) Name and address NONE	(B) Loans and Advances	(C) Compensation (if not paid, enter -0-)	(D) Contributions to employee benefit plans & deferred compensation plans	(E) Expense account and other allowances
----- ----- -----				
----- ----- -----				
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----- ----- -----				
----- ----- -----				
----- ----- -----				
----- ----- -----				
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Part VI Other Information (See the instructions.)

Yes	No
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- 76 Did the organization make a change in its activities or methods of conducting activities? If "Yes," attach a detailed statement of each change
- 77 Were any changes made in the organizing or governing documents but not reported to the IRS?
If "Yes," attach a conformed copy of the changes.
- 78 a Did the organization have unrelated business gross income of \$1,000 or more during the year covered by this return?
b If "Yes," has it filed a tax return on **Form 990-T** for this year? N/A
- 79 Was there a liquidation, dissolution, termination, or substantial contraction during the year? If "Yes," attach a statement
- 80 a Is the organization related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization?
b If "Yes," enter the name of the organization N/A
- _____ and check whether it is ☐ exempt or ☐ nonexempt
- 81 a Enter direct and indirect political expenditures. (See line 81 instructions.) 81a 0
- b Did the organization file **Form 1120-POL** for this year?

76

77

78a

78b

79

80a

81b

Form 990 (2007)

Part VI Other Information (continued)

		Yes	No
82 a	Did the organization receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value?		X
b	If "Yes," you may indicate the value of these items here. Do not include this amount as revenue in Part I or as an expense in Part II. (See instructions in Part III.)		
	82b N/A		
83 a	Did the organization comply with the public inspection requirements for returns and exemption applications?	X	
b	Did the organization comply with the disclosure requirements relating to <i>quid pro quo</i> contributions?	X	
84 a	Did the organization solicit any contributions or gifts that were not tax deductible?		
	N/A		
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?		
	N/A		
85 a	501(c)(4), (5), or (6). Were substantially all dues nondeductible by members?		
	N/A		
b	Did the organization make only in-house lobbying expenditures of \$2,000 or less?		
	N/A		
	If "Yes" was answered to either 85a or 85b, do not complete 85c through 85h below unless the organization received a waiver for proxy tax owed for the prior year.		
c	Dues, assessments, and similar amounts from members		
	85c N/A		
d	Section 162(e) lobbying and political expenditures		
	85d N/A		
e	Aggregate nondeductible amount of section 6033(e)(1)(A) dues notices		
	85e N/A		
f	Taxable amount of lobbying and political expenditures (line 85d less 85e)		
	85f N/A		
g	Does the organization elect to pay the section 6033(e) tax on the amount on line 85f?		
	N/A		
h	If section 6033(e)(1)(A) dues notices were sent, does the organization agree to add the amount on line 85f to its reasonable estimate of dues allocable to nondeductible lobbying and political expenditures for the following tax year?		
	N/A		
86	501(c)(7) organizations. Enter: a Initiation fees and capital contributions included on line 12		
	86a N/A		
b	Gross receipts, included on line 12, for public use of club facilities		
	86b N/A		
87	501(c)(12) organizations. Enter: a Gross income from members or shareholders		
	87a N/A		
b	Gross income from other sources. (Do not net amounts due or paid to other sources against amounts due or received from them.)		
	87b N/A		
88 a	At any time during the year, did the organization own a 50% or greater interest in a taxable corporation or partnership, or an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? If "Yes," complete Part IX		X
b	At any time during the year, did the organization, directly or indirectly, own a controlled entity within the meaning of section 512(b)(13)? If "Yes," complete Part XI		X
89 a	501(c)(3) organizations. Enter: Amount of tax imposed on the organization during the year under: section 4911 <u>0</u> , section 4912 <u>0</u> , section 4955 <u>0</u> .		
b	501(c)(3) and 501(c)(4) organizations. Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year? If "Yes," attach a statement explaining each transaction		X
c	Enter: Amount of tax imposed on the organization managers or disqualified persons during the year under sections 4912, 4955, and 4958 <u>0</u> .		
d	Enter: Amount of tax on line 89c, above, reimbursed by the organization <u>0</u> .		
e	All organizations. At any time during the tax year, was the organization a party to a prohibited tax shelter transaction?		X
f	All organizations. Did the organization acquire a direct or indirect interest in any applicable insurance contract?		X
g	For supporting organizations and sponsoring organizations maintaining donor advised funds. Did the supporting organization, or a fund maintained by a sponsoring organization, have excess business holdings at any time during the year?		X
	89g		
90 a	List the states with which a copy of this return is filed <u>SEE STATEMENT 10</u>		
b	Number of employees employed in the pay period that includes March 12, 2007	90b	55
91 a	The books are in care of <u>THE ORGANIZATION</u> Telephone no <u>703-682-9320</u> Located at <u>901 NORTH GLEBE RD, SUITE 900, ARLINGTON, VA</u> ZIP + 4 <u>22203</u>		
b	At any time during the calendar year, did the organization have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? If "Yes," enter the name of the foreign country <u>N/A</u> See the instructions for exceptions and filing requirements for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts.	91b	X

Part VI Other Information (continued)

Yes No

c At any time during the calendar year, did the organization maintain an office outside of the United States?

91c

X

If "Yes," enter the name of the foreign country **N/A**

92 Section 4947(a)(1) nonexempt charitable trusts filing Form 990 in lieu of Form 1041- Check here

☐

and enter the amount of tax-exempt interest received or accrued during the tax year

92

N/A

Part VII Analysis of Income-Producing Activities (See the instructions.)

Note: Enter gross amounts unless otherwise indicated

93 Program service revenue:

a ATTORNEY FEES

b HONORARIA

c MISCELLANEOUS

d

e

f Medicare/Medicaid payments

g Fees and contracts from government agencies

94 Membership dues and assessments

95 Interest on savings and temporary cash investments

96 Dividends and interest from securities

97 Net rental income or (loss) from real estate:

a debt-financed property

b not debt-financed property

98 Net rental income or (loss) from personal property

99 Other investment income

100 Gain or (loss) from sales of assets

other than inventory

101 Net income or (loss) from special events

102 Gross profit or (loss) from sales of inventory

103 Other revenue:

a

b

c

d

e

104 Subtotal (add columns (B), (D), and (E))

105 Total (add line 104, columns (B), (D), and (E))

Note: Line 105 plus line 1e, Part I, should equal the amount on line 12, Part I

Part VIII Relationship of Activities to the Accomplishment of Exempt Purposes (See the instructions.)

Line No. Explain how each activity for which income is reported in column (E) of Part VII contributed importantly to the accomplishment of the organization's exempt purposes (other than by providing funds for such purposes)

SEE STATEMENT 11

Part IX Information Regarding Taxable Subsidiaries and Disregarded Entities (See the instructions.)

(A) Name, address, and EIN of corporation, partnership, or disregarded entity	(B) Percentage of ownership interest	(C) Nature of activities	(D) Total income	(E) End-of-year assets
N/A	%			
	%			
	%			
	%			

Part X Information Regarding Transfers Associated with Personal Benefit Contracts (See the instructions.)

(a) Did the organization, during the year, receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?

☐ Yes☒ No

(b) Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract?

☐ Yes☒ No

Note: If "Yes" to (b), file Form 8870 and Form 4720 (see instructions)

Part XI Information Regarding Transfers To and From Controlled Entities. Complete only if the organization is a controlling organization as defined in section 512(b)(13) N/A

106 Did the reporting organization **make** any transfers **to** a controlled entity as defined in section 512(b)(13) of the Code? If "Yes," complete the schedule below for each controlled entity.

Yes	No

	(A) Name, address, of each controlled entity	(B) Employer Identification Number	(C) Description of transfer	(D) Amount of transfer
a	----- ----- -----			
b	----- ----- -----			
c	----- ----- -----			
Totals				

107 Did the reporting organization **receive** any transfers **from** a controlled entity as defined in section 512(b)(13) of the Code? If "Yes," complete the schedule below for each controlled entity.

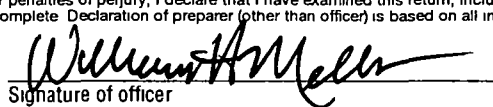
Yes	No

	(A) Name, address, of each controlled entity	(B) Employer Identification Number	(C) Description of transfer	(D) Amount of transfer
a	----- ----- -----			
b	----- ----- -----			
c	----- ----- -----			
Totals				

108 Did the organization have a binding written contract in effect on August 17, 2006, covering the interest, rents, royalties, and annuities described in question 107 above?


Yes	No

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Please Sign Here:  Date: 12/15/08

Signature of officer: WILLIAM H. MELLOR, PRESIDENT

Type or print name and title

Paid Preparer's Use Only: Preparer's signature:  Date: 12/15/08 Check if self-employed: ☐ Preparer's SSN or PTIN (See Gen. Inst. X):

Firm's name (or yours if self-employed), address, and ZIP + 4: RUBINO & MCGEETHIN, CHARTERED 6903 ROCKLEDGE DRIVE, SUITE 1200 BETHESDA, MD 20817 EIN: Phone no: 301-564-3636

SCHEDULE A
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Organization Exempt Under Section 501(c)(3)

(Except Private Foundation) and Section 501(e), 501(f), 501(k),
501(n), or 4947(a)(1) Nonexempt Charitable Trust

Supplementary Information-(See separate instructions.)

▶ **MUST be completed by the above organizations and attached to their Form 990 or 990-EZ**

OMB No 1545-0047

2007

Name of the organization

INSTITUTE FOR JUSTICE

Employer identification number

52 1744337

Part I

Compensation of the Five Highest Paid Employees Other Than Officers, Directors, and Trustees

(See page 1 of the instructions List each one If there are none, enter "None")

(a) Name and address of each employee paid more than \$50,000	(b) Title and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans & deferred compensation	(e) Expense account and other allowances
JOHN KRAMER 901 N. GLEBE RD, ARLINGTON, VA 22203	VP FOR COMMUN 40.00	185,083.	37,733.	0.
SCOTT BULLOCK 901 N. GLEBE RD, ARLINGTON, VA 22203	SR. ATTORNEY 40.00	152,000.	26,576.	0.
DANA BERLINER 901 N. GLEBE RD, ARLINGTON, VA 22203	SR. ATTORNEY 40.00	169,193.	25,099.	0.
CLARK NEILY 901 N. GLEBE RD, ARLINGTON, VA 22203	SR. ATTORNEY 40.00	147,188.	25,020.	0.
STEVE SIMPSON 901 N. GLEBE RD, ARLINGTON, VA 22203	SR. ATTORNEY 40.00	145,833.	32,579.	0.
Total number of other employees paid over \$50,000 ▶	25			

Part II-A

Compensation of the Five Highest Paid Independent Contractors for Professional Services

(See page 2 of the instructions List each one (whether individuals or firms) If there are none, enter "None")

(a) Name and address of each independent contractor paid more than \$50,000	(b) Type of service	(c) Compensation
DATAPLEX 1632 WOODSIDE DR., WOODBRIDGE, VA 22191	DIRECT MAIL	59,191.
STRIVE COMMUNICATIONS 2602 WINDWOOD DR., WINCHESTER, VA 22601	DIRECT MAIL	50,462.
Total number of others receiving over \$50,000 for professional services ▶	0	

Part II-B

Compensation of the Five Highest Paid Independent Contractors for Other Services

(List each contractor who performed services other than professional services, whether individuals or firms If there are none, enter "None" See page 2 of the instructions)

(a) Name and address of each independent contractor paid more than \$50,000	(b) Type of service	(c) Compensation
VMW PRINTING 5207 MONROE PL., HYATSVILLE, MD 20781	PRINTING	114,306.
Total number of other contractors receiving over \$50,000 for other services ▶	0	

Part III Statements About Activities (See page 2 of the instructions)

Yes No

- 1 During the year, has the organization attempted to influence national, state, or local legislation, including any attempt to influence public opinion on a legislative matter or referendum? If "Yes," enter the total expenses paid or incurred in connection with the lobbying activities ► \$ 37,102. (Must equal amounts on line 38, Part VI-A, or line i of Part VI-B) **VI-A, LINE 38B**

1 X

Organizations that made an election under section 501(h) by filing Form 5768 must complete Part VI-A. Other organizations checking "Yes" must complete Part VI-B AND attach a statement giving a detailed description of the lobbying activities

- 2 During the year, has the organization, either directly or indirectly, engaged in any of the following acts with any substantial contributors, trustees, directors, officers, creators, key employees, or members of their families, or with any taxable organization with which any such person is affiliated as an officer, director, trustee, majority owner, or principal beneficiary? (If the answer to any question is "Yes," attach a detailed statement explaining the transactions)

a Sale, exchange, or leasing of property?

2a X

b Lending of money or other extension of credit?

2b X

c Furnishing of goods, services, or facilities?

2c X

d Payment of compensation (or payment or reimbursement of expenses if more than \$1,000)? SEE PART V-A, FORM 990

2d X

e Transfer of any part of its income or assets?

2e X

- 3 a Did the organization make grants for scholarships, fellowships, student loans, etc.? (If "Yes," attach an explanation of how the organization determines that recipients qualify to receive payments)

3a X

b Did the organization have a section 403(b) annuity plan for its employees?

3b X

c Did the organization receive or hold an easement for conservation purposes, including easements to preserve open space, the environment, historic land areas or historic structures? If "Yes," attach a detailed statement

3c X

d Did the organization provide credit counseling, debt management, credit repair, or debt negotiation services?

3d X

- 4 a Did the organization maintain any donor advised funds? If "Yes," complete lines 4b through 4g. If "No," complete lines 4f and 4g

4a X

b Did the organization make any taxable distributions under section 4966?

N/A

c Did the organization make a distribution to a donor, donor advisor, or related person?

N/A

d Enter the total number of donor advised funds owned at the end of the tax year

► N/A

e Enter the aggregate value of assets held in all donor advised funds owned at the end of the tax year

► N/A

f Enter the total number of separate funds or accounts owned at the end of the year (excluding donor advised funds included on line 4d) where donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts

► 0.

g Enter the aggregate value of assets in all funds or accounts included on line 4f at the end of the tax year

► 0.

Part IV Reason for Non-Private Foundation Status (See pages 4 through 8 of the instructions)I certify that the organization is not a private foundation because it is (Please check only **ONE** applicable box)

- 5 ☐ A church, convention of churches, or association of churches Section 170(b)(1)(A)(i)
- 6 ☐ A school Section 170(b)(1)(A)(ii) (Also complete Part V)
- 7 ☐ A hospital or a cooperative hospital service organization Section 170(b)(1)(A)(iii)
- 8 ☐ A federal, state, or local government or governmental unit Section 170(b)(1)(A)(v)
- 9 ☐ A medical research organization operated in conjunction with a hospital Section 170(b)(1)(A)(iii) Enter the hospital's name, city, and state ►
- 10 ☐ An organization operated for the benefit of a college or university owned or operated by a governmental unit Section 170(b)(1)(A)(iv) (Also complete the **Support Schedule** in Part IV-A)
- 11a ☒ An organization that normally receives a substantial part of its support from a governmental unit or from the general public Section 170(b)(1)(A)(vi) (Also complete the **Support Schedule** in Part IV-A)
- 11b ☐ A community trust Section 170(b)(1)(A)(vi) (Also complete the **Support Schedule** in Part IV-A)
- 12 ☐ An organization that normally receives (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its charitable, etc., functions - subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975 See section 509(a)(2) (Also complete the **Support Schedule** in Part IV-A)
- 13 ☐ An organization that is not controlled by any disqualified persons (other than foundation managers) and otherwise meets the requirements of section 509(a)(3) Check the box that describes the type of supporting organization
☐ Type I ☐ Type II ☐ Type III-Functionally Integrated ☐ Type III-Other

Provide the following information about the supported organizations. (See page 8 of the instructions)

(a) Name(s) of supported organization(s)	(b) Employer identification number (EIN)	(c) Type of organization (described in lines 5 through 12 above or IRC section)	(d) Is the supported organization listed in the supporting organization's governing documents?		(e) Amount of support
			Yes	No	
Total ►					

- 14 ☐ An organization organized and operated to test for public safety Section 509(a)(4) (See page 8 of the instructions)

Part IV-A Support Schedule (Complete only if you checked a box on line 10, 11, or 12) Use cash method of accounting.
Note: You may use the worksheet in the instructions for converting from the accrual to the cash method of accounting.

Calendar year (or fiscal year beginning in)	(a) 2006	(b) 2005	(c) 2004	(d) 2003	(e) Total
15 Gifts, grants, and contributions received (Do not include unusual grants. See line 28.)	8,481,530.	7,458,731.	7,091,693.	6,162,724.	29,194,678.
16 Membership fees received					
17 Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is related to the organization's charitable, etc., purpose	252,097.	51,803.	192,599.	186,826.	683,325.
18 Gross income from interest, dividends, amounts received from payments on securities loans (section 512(a)(5)), rents, royalties, income from similar sources, and unrelated business taxable income (less section 511 taxes) from businesses acquired by the organization after June 30, 1975	397,121.	306,816.	223,766.	166,030.	1,093,733.
19 Net income from unrelated business activities not included in line 18					
20 Tax revenues levied for the organization's benefit and either paid to it or expended on its behalf					
21 The value of services or facilities furnished to the organization by a governmental unit without charge. Do not include the value of services or facilities generally furnished to the public without charge.					
22 Other income. Attach a schedule. Do not include gain or (loss) from sale of capital assets.					
23 Total of lines 15 through 22	9,130,748.	7,817,350.	7,508,058.	6,515,580.	30,971,736.
24 Line 23 minus line 17	8,878,651.	7,765,547.	7,315,459.	6,328,754.	30,288,411.
25 Enter 1% of line 23	91,307.	78,174.	75,081.	65,156.	
26 Organizations described on lines 10 or 11: a Enter 2% of amount in column (e), line 24					605,768.
b Prepare a list for your records to show the name of and amount contributed by each person (other than a governmental unit or publicly supported organization) whose total gifts for 2003 through 2006 exceeded the amount shown in line 26a. Do not file this list with your return. Enter the total of all these excess amounts					3,561,760.
c Total support for section 509(a)(1) test. Enter line 24, column (e)					30,288,411.
d Add: Amounts from column (e) for lines 18 1,093,733. 19 22 3,561,760.					4,655,493.
e Public support (line 26c minus line 26d total)					25,632,918.
f Public support percentage (line 26e (numerator) divided by line 26c (denominator))					84.6295%
27 Organizations described on line 12: a For amounts included in lines 15, 16, and 17 that were received from a "disqualified person," prepare a list for your records to show the name of, and total amounts received in each year from, each "disqualified person." Do not file this list with your return. Enter the sum of such amounts for each year N/A					
b For any amount included in line 17 that was received from each person (other than "disqualified persons"), prepare a list for your records to show the name of, and amount received for each year, that was more than the larger of (1) the amount on line 25 for the year or (2) \$5,000. (Include in the list organizations described in lines 5 through 11b, as well as individuals.) Do not file this list with your return. After computing the difference between the amount received and the larger amount described in (1) or (2), enter the sum of these differences (the excess amounts) for each year N/A					
c Add: Amounts from column (e) for lines 15 16 17 20					N/A
d Add: Line 27a total and line 27b total					N/A
e Public support (line 27c total minus line 27d total)					N/A
f Total support for section 509(a)(2) test. Enter amount on line 23, column (e)					N/A
g Public support percentage (line 27e (numerator) divided by line 27f (denominator))					N/A %
h Investment income percentage (line 18, column (e) (numerator) divided by line 27f (denominator))					N/A %
28 Unusual Grants. For an organization described in line 10, 11, or 12 that received any unusual grants during 2003 through 2006, prepare a list for your records to show, for each year, the name of the contributor, the date and amount of the grant, and a brief description of the nature of the grant. Do not file this list with your return. Do not include these grants in line 15					

Part V Private School Questionnaire (See page 9 of the instructions)

N/A

(To be completed ONLY by schools that checked the box on line 6 in Part IV)

	Yes	No
29 Does the organization have a racially nondiscriminatory policy toward students by statement in its charter, bylaws, other governing instrument, or in a resolution of its governing body?		
30 Does the organization include a statement of its racially nondiscriminatory policy toward students in all its brochures, catalogues, and other written communications with the public dealing with student admissions, programs, and scholarships?		
31 Has the organization publicized its racially nondiscriminatory policy through newspaper or broadcast media during the period of solicitation for students, or during the registration period if it has no solicitation program, in a way that makes the policy known to all parts of the general community it serves? If "Yes," please describe, if "No," please explain (If you need more space, attach a separate statement)		
<hr/>		
<hr/>		
<hr/>		
32 Does the organization maintain the following		
a Records indicating the racial composition of the student body, faculty, and administrative staff?		
b Records documenting that scholarships and other financial assistance are awarded on a racially nondiscriminatory basis?		
c Copies of all catalogues, brochures, announcements, and other written communications to the public dealing with student admissions, programs, and scholarships?		
d Copies of all material used by the organization or on its behalf to solicit contributions? If you answered "No" to any of the above, please explain (If you need more space, attach a separate statement)		
<hr/>		
33 Does the organization discriminate by race in any way with respect to		
a Students' rights or privileges?		
b Admissions policies?		
c Employment of faculty or administrative staff?		
d Scholarships or other financial assistance?		
e Educational policies?		
f Use of facilities?		
g Athletic programs?		
h Other extracurricular activities? If you answered "Yes" to any of the above, please explain (If you need more space, attach a separate statement)		
<hr/>		
<hr/>		
34 a Does the organization receive any financial aid or assistance from a governmental agency?		
b Has the organization's right to such aid ever been revoked or suspended? If you answered "Yes" to either 34a or b, please explain using an attached statement		
35 Does the organization certify that it has complied with the applicable requirements of sections 4 01 through 4 05 of Rev Proc 75-50, 1975-2 C B 587, covering racial nondiscrimination? If "No," attach an explanation		

Part VI-A Lobbying Expenditures by Electing Public Charities (See page 11 of the instructions)

(To be completed ONLY by an eligible organization that filed Form 5768)

Check ☐ **a** if the organization belongs to an affiliated groupCheck ☐ **b** if you checked "a" and "limited control" provisions apply**Limits on Lobbying Expenditures**

(The term "expenditures" means amounts paid or incurred)

	(a) Affiliated group totals	(b) To be completed for all electing organizations
	N/A	
36 Total lobbying expenditures to influence public opinion (grassroots lobbying)	36	5,335.
37 Total lobbying expenditures to influence a legislative body (direct lobbying)	37	31,767.
38 Total lobbying expenditures (add lines 36 and 37)	38	37,102.
39 Other exempt purpose expenditures	39	8,908,940.
40 Total exempt purpose expenditures (add lines 38 and 39)	40	8,946,042.
41 Lobbying nontaxable amount Enter the amount from the following table -		
If the amount on line 40 is -		
Not over \$500,000	20% of the amount on line 40	
Over \$500,000 but not over \$1,000,000	\$100,000 plus 15% of the excess over \$500,000	
Over \$1,000,000 but not over \$1,500,000	\$175,000 plus 10% of the excess over \$1,000,000	
Over \$1,500,000 but not over \$17,000,000	\$225,000 plus 5% of the excess over \$1,500,000	
Over \$17,000,000	\$1,000,000	
The lobbying nontaxable amount is -		
	41	597,302.
42 Grassroots nontaxable amount (enter 25% of line 41)	42	149,326.
43 Subtract line 42 from line 36 Enter -0- if line 42 is more than line 36	43	0.
44 Subtract line 41 from line 38 Enter -0- if line 41 is more than line 38	44	0.

Caution: If there is an amount on either line 43 or line 44, you must file Form 4720**4-Year Averaging Period Under Section 501(h)**

(Some organizations that made a section 501(h) election do not have to complete all of the five columns below See the instructions for lines 45 through 50 on page 13 of the instructions)

	Lobbying Expenditures During 4-Year Averaging Period				
Calendar year (or fiscal year beginning in) ►	(a) 2007	(b) 2006	(c) 2005	(d) 2004	(e) Total
45 Lobbying nontaxable amount	597,302.	584,089.	496,183.	451,663.	2,129,237.
46 Lobbying ceiling amount (150% of line 45(e))					3,193,856.
47 Total lobbying expenditures	37,102.	71,721.	167,032.	18,399.	294,254.
48 Grassroots nontaxable amount	149,326.	146,022.	124,046.	112,916.	532,310.
49 Grassroots ceiling amount (150% of line 48(e))					798,465.
50 Grassroots lobbying expenditures	5,335.	15,762.	53,058.	18,399.	92,554.

Part VI-B Lobbying Activity by Nonelecting Public Charities

(For reporting only by organizations that did not complete Part VI-A) (See page 14 of the instructions)

N/A

During the year, did the organization attempt to influence national, state or local legislation, including any attempt to influence public opinion on a legislative matter or referendum, through the use of

- a Volunteers
- b Paid staff or management (Include compensation in expenses reported on lines c through h.)
- c Media advertisements
- d Mailings to members, legislators, or the public
- e Publications, or published or broadcast statements
- f Grants to other organizations for lobbying purposes
- g Direct contact with legislators, their staffs, government officials, or a legislative body
- h Rallies, demonstrations, seminars, conventions, speeches, lectures, or any other means
- i Total lobbying expenditures (Add lines c through h)

If "Yes" to any of the above, also attach a statement giving a detailed description of the lobbying activities

Yes	No	Amount
		0.

Exempt Organizations (See page 14 of the instructions)

N/A

	Yes	No
51a(i)		X
a(ii)		X
b(i)		X
b(ii)		X
b(iii)		X
b(iv)		X
b(v)		X
b(vi)		X
c		X

[illegible]

▶ ☐ Yes ☒ No

N/A

[illegible]

Asset No	Description	Date Acquired	Method	Life	Line No	Unadjusted Cost Or Basis	Bus % Excl	* Reduction In Basis	Basis For Depreciation	Accumulated Depreciation	Current Sec 179	Current Year Deduction
1	FURNITURE AND EQUIPMENT		VARIES	.000	16	770,727.			770,727.	224,194.		114,634.
2	COMPUTERS AND SOFTWARE		VARIES	.000	16	450,189.			450,189.	255,526.		71,202.
3	LEASEHOLD IMPROVEMENTS		VARIES	.000	16	828,105.			828,105.	218,761.		164,733.
	* TOTAL 990 PAGE 2 DEPR					2,049,021.		0.	2,049,021.	698,481.	0.	350,569.

FORM 990	RENTAL INCOME	STATEMENT	1
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KIND AND LOCATION OF PROPERTY	ACTIVITY NUMBER	GROSS RENTAL INCOME
SUBLEASE INCOME-MAIN OFFICE	1	108,176.
TOTAL TO FORM 990, PART I, LINE 6A		108,176.

FORM 990	GAIN (LOSS) FROM PUBLICLY TRADED SECURITIES	STATEMENT	2
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DESCRIPTION	GROSS SALES PRICE	COST OR OTHER BASIS	EXPENSE OF SALE	NET GAIN OR (LOSS)
GAIN ON SALE OF INVESTMENTS	1,373,646.	1,373,288.	0.	358.
TO FORM 990, PART I, LINE 8	1,373,646.	1,373,288.	0.	358.

FORM 990	OTHER CHANGES IN NET ASSETS OR FUND BALANCES	STATEMENT	3
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DESCRIPTION	AMOUNT
NET UNREALIZED LOSS ON INVESTMENTS	<1,890,033.>
TOTAL TO FORM 990, PART I, LINE 20	<1,890,033.>

FORM 990	STATEMENT OF ORGANIZATION'S PRIMARY EXEMPT PURPOSE PART III	STATEMENT	4
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EXPLANATION

TO ADVANCE A RULE OF LAW IN WHICH INDIVIDUALS CAN CONTROL THEIR DESTINIES AS FREE AND RESPONSIBLE MEMBERS OF SOCIETY THROUGH STRATEGIC LITIGATION, TRAINING, COMMUNICATION AND OUTREACH, AND TO TRAIN LAW STUDENTS, LAWYERS AND POLICY ACTIVISTS IN THE TACTICS OF PUBLIC INTEREST LITIGATION. THROUGH THESE ACTIVITIES IJ CHALLENGES THE IDEOLOGY OF THE WELFARE STATE AND ILLUSTRATES AND EXTENDS THE BENEFITS OF FREEDOM TO THOSE WHOSE FULL ENJOYMENT OF LIBERTY IS DENIED BY THE GOVERNMENT.

FORM 990	DEPRECIATION OF ASSETS NOT HELD FOR INVESTMENT	STATEMENT	5
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DESCRIPTION	COST OR OTHER BASIS	ACCUMULATED DEPRECIATION	BOOK VALUE
FURNITURE AND EQUIPMENT	770,727.	338,828.	431,899.
COMPUTERS AND SOFTWARE	450,189.	326,728.	123,461.
LEASEHOLD IMPROVEMENTS	828,105.	383,494.	444,611.
TOTAL TO FORM 990, PART IV, LN 57	2,049,021.	1,049,050.	999,971.

FORM 990	OTHER LIABILITIES	STATEMENT	6
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DESCRIPTION	BEGINNING OF YEAR	END OF YEAR
DEFERRED RENT	113,760.	164,641.
CAPITAL LEASE LIABILITY	50,530.	47,205.
TOTAL TO FORM 990, PART IV, LINE 65	164,290.	211,846.

FORM 990	NON-GOVERNMENT SECURITIES	STATEMENT	7
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SECURITY DESCRIPTION	COST/FMV	CORPORATE STOCKS	CORPORATE BONDS	OTHER PUBLICLY TRADED SECURITIES	TOTAL NON-GOV'T SECURITIES
MONEY MARKET FUNDS	FMV			1,101,556.	1,101,556.
VANGUARD TSM	FMV	7,912,292.			7,912,292.
VANGUARD -	FMV				
INTERNATIONAL STOCK		5,189,986.			5,189,986.
VANGUARD ST BOND	FMV		680,733.		680,733.
TO FORM 990, LINE 54A, COL B		13102278.	680,733.	1,101,556.	14884567.

FORM 990 PART V-A - LIST OF CURRENT OFFICERS, DIRECTORS, STATEMENT 8
TRUSTEES AND KEY EMPLOYEES

NAME AND ADDRESS	TITLE AND AVRG HRS/WK	COMPEN- SATION	EMPLOYEE BEN PLAN CONTRIB	EXPENSE ACCOUNT
WILLIAM H. MELLOR 901 NORTH GLEBE RD. ARLINGTON, VA 22203	PRESIDENT & GENERAL COUNSEL 40.00	374,002.	57,440.	0.
DEBORAH SIMPSON 901 NORTH GLEBE RD. ARLINGTON, VA 22203	MANAGING DIRECTOR/SECRETARY 40.00	130,664.	19,133.	0.
BRIAN MONTGOMERY 901 NORTH GLEBE RD. ARLINGTON, VA 22203	CHIEF FINANCIAL OFFICER 40.00	109,373.	21,743.	0.
DAVID B. KENNEDY 901 NORTH GLEBE RD. ARLINGTON, VA 22203	CHAIRMAN 1.00	0.	0.	0.
ROBERT A. LEVY 901 NORTH GLEBE RD. ARLINGTON, VA 22203	MEMBER 1.00	0.	0.	0.
JAMES LINTOTT 901 NORTH GLEBE RD. ARLINGTON, VA 22203	MEMBER 1.00	0.	0.	0.
ABIGAIL THERNSTROM 901 NORTH GLEBE RD. ARLINGTON, VA 22203	MEMBER 1.00	0.	0.	0.
GERRIT H. WORMHOUDT 901 NORTH GLEBE RD. ARLINGTON, VA 22203	MEMBER 1.00	0.	0.	0.
ARTHUR DANTCHIK 901 NORTH GLEBE RD. ARLINGTON, VA 22203	MEMBER 1.00	0.	0.	0.
MARK BABUNOVIC 901 NORTH GLEBE RD. ARLINGTON, VA 22203	MEMBER 1.00	0.	0.	0.
STEPHEN W. MODZELEWSKI 901 NORTH GLEBE RD. ARLINGTON, VA 22203	MEMBER 1.00	0.	0.	0.

INSTITUTE FOR JUSTICE

52-1744337

ROBERT GELFORD
901 NORTH GLEBE RD.
ARLINGTON, VA 22203

MEMBER
1.00

0. 0. 0.

TOTALS INCLUDED ON FORM 990, PART V-A

614,039. 98,316. 0.

FORM 990	EXPLANATION OF RELATIONSHIP PART V-A, LINE 75B	STATEMENT	9
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INDIVIDUAL'S NAMETITLE OR ROLE

DEBORAH SIMPSON

MANAGING DIRECTOR/SECRETARY

INDIVIDUAL'S NAMETITLE OR ROLE

STEVE SIMPSON

SR. ATTORNEY

EXPLANATION OF RELATIONSHIP

HUSBAND AND WIFE.

FORM 990	LIST OF STATES RECEIVING COPY OF RETURN PART VI, LINE 90	STATEMENT	10
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STATESAL, AK, AZ, CO, CT, DC, FL, KS, KY, ME, MD, MA, MI, MN, MS, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI
IN, UT, WA, WV, WI, NY, SC, VA, IL, MO

FORM 990	PART VIII - RELATIONSHIP OF ACTIVITIES TO ACCOMPLISHMENT OF EXEMPT PURPOSES	STATEMENT	11
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<u>LINE</u>	<u>EXPLANATION OF RELATIONSHIP OF ACTIVITIES</u>
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93A	ATTORNEY FEES ARE ACCEPTED WHEN AN AMOUNT IS AWARDED BY THE COURT AND BY THE OPPOSING PARTY OR WHEN AN AMOUNT IS AWARDED BY STATUE.
93B	SPEECHES PERTAINING TO THE INSTITUTE'S EXEMPT PURPOSE BY PROVIDING A MEANS OF EDUCATING THE PUBLIC.
93C	MISCELLANEOUS REVENUE RELATED TO THE INSTITUTE'S EXEMPT PURPOSE.

Form **4562-FY**Department of the Treasury
Internal Revenue Service

Name(s) shown on return

Depreciation and Amortization 990
(Including Information on Listed Property)

▶ See separate instructions.

▶ Attach to your tax return.

OMB No 1545-0172

2007Attachment
Sequence No 67

INSTITUTE FOR JUSTICE

FORM 990 PAGE 2

52-1744337

Part I Election To Expense Certain Property Under Section 179 *Note If you have any listed property, complete Part V before you complete Part I*

1	Maximum amount. See the instructions for a higher limit for certain businesses	1	125,000.
2	Total cost of section 179 property placed in service (see instructions)	2	
3	Threshold cost of section 179 property before reduction in limitation	3	500,000.
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
7	Listed property. Enter the amount from line 29	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	
10	Carryover of disallowed deduction from line 13 of your 2006 Form 4562	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5	11	
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	
13	Carryover of disallowed deduction to 2008. Add lines 9 and 10, less line 12	13	

Note: Do not use Part II or Part III below for listed property. Instead, use Part V.**Part II** Special Depreciation Allowance and Other Depreciation (Do not include listed property.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year	14	
15	Property subject to section 168(f)(1) election	15	
16	Other depreciation (including ACRS)	16	350,569.

Part III MACRS Depreciation (Do not include listed property.) (See instructions.)**Section A**

17	MACRS deductions for assets placed in service in tax years beginning before 2007	17	
18	If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here <input type="checkbox"/>		

Section B - Assets Placed in Service During 2007 Tax Year Using the General Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only - see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs.		S/L	
h Residential rental property	/		27 5 yrs.	MM	S/L	
	/		27 5 yrs.	MM	S/L	
i Nonresidential real property	/		39 yrs.	MM	S/L	
	/			MM	S/L	

Section C - Assets Placed in Service During 2007 Tax Year Using the Alternative Depreciation System

20a Class life					S/L	
b 12-year			12 yrs.		S/L	
c 40-year	/		40 yrs.	MM	S/L	

Part IV Summary (see instructions)

21	Listed property. Enter amount from line 28	21	
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instr.	22	350,569.
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

Part V Listed Property (Include automobiles, certain other vehicles, cellular telephones, certain computers, and property used for entertainment, recreation, or amusement.)**Note:** For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete only 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.**Section A - Depreciation and Other Information** (Caution: See the instructions for limits for passenger automobiles.)**24a** Do you have evidence to support the business/investment use claimed? ☐ Yes ☐ No **24b** If "Yes," is the evidence written? ☐ Yes ☐ No

(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/ investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/ Convention	(h) Depreciation deduction	(i) Elected section 179 cost
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25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use**25****26** Property used more than 50% in a qualified business use:

		%						
		%						
		%						

27 Property used 50% or less in a qualified business use:

		%				S/L -		
		%				S/L -		
		%				S/L -		

28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1**28****29** Add amounts in column (i), line 26. Enter here and on line 7, page 1**29****Section B - Information on Use of Vehicles**

Complete this section for vehicles used by a sole proprietor, partner, or other "more than 5% owner," or related person.

If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle	(b) Vehicle	(c) Vehicle	(d) Vehicle	(e) Vehicle	(f) Vehicle
30 Total business/investment miles driven during the year (do not include commuting miles)						
31 Total commuting miles driven during the year						
32 Total other personal (noncommuting) miles driven						
33 Total miles driven during the year. Add lines 30 through 32						
34 Was the vehicle available for personal use during off-duty hours?	Yes	No	Yes	No	Yes	No
35 Was the vehicle used primarily by a more than 5% owner or related person?						
36 Is another vehicle available for personal use?						

Section C - Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who are not more than 5% owners or related persons.

37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?	Yes	No
38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See the instructions for vehicles used by corporate officers, directors, or 1% or more owners		
39 Do you treat all use of vehicles by employees as personal use?		
40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
41 Do you meet the requirements concerning qualified automobile demonstration use?		

Note: If your answer to 37, 38, 39, 40, or 41 is "Yes," do not complete Section B for the covered vehicles.**Part VI Amortization**

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year
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42 Amortization of costs that begins during your 2007 tax year:

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43 Amortization of costs that began before your 2007 tax year**43****44** Total. Add amounts in column (f). See the instructions for where to report**44**

Application for Extension of Time To File an Exempt Organization Return

OMB No. 1545-1709

► File a separate application for each return

- If you are filing for an **Automatic 3-Month Extension**, complete only **Part I** and check this box ☒
- If you are filing for an **Additional (Not Automatic) 3-Month Extension**, complete only **Part II** (on page 2 of this form).

Do not complete Part II unless you have already been granted an automatic 3-month extension on a previously filed Form 8868

Part I Automatic 3-Month Extension of Time. Only submit original (no copies needed).

A corporation required to file Form 990-T and requesting an automatic 6-month extension - check this box and complete Part I only ☐

All other corporations (including 1120-C filers), partnerships, REMICs, and trusts must use Form 7004 to request an extension of time to file income tax returns

Electronic Filing (e-file). Generally, you can electronically file Form 8868 if you want a 3-month automatic extension of time to file one of the returns noted below (6 months for a corporation required to file Form 990-T). However, you cannot file Form 8868 electronically if (1) you want the additional (not automatic) 3-month extension or (2) you file Forms 990-BL, 6069, or 8870, group returns, or a composite or consolidated Form 990-T. Instead, you must submit the fully completed and signed page 2 (Part II) of Form 8868. For more details on the electronic filing of this form, visit www.irs.gov/efile and click on *e-file for Charities & Nonprofits*

Type or print File by the due date for filing your return. See instructions.	Name of Exempt Organization INSTITUTE FOR JUSTICE	Employer identification number 52-1744337
	Number, street, and room or suite no. If a P.O. box, see instructions. 901 NORTH GLEBE ROAD	
	City, town or post office, state, and ZIP code. For a foreign address, see instructions. ARLINGTON, VA 22203	

Check type of return to be filed (file a separate application for each return):

- | | | |
|--|---|------------------------------------|
| <input checked="" type="checkbox"/> Form 990 | <input type="checkbox"/> Form 990-T (corporation) | <input type="checkbox"/> Form 4720 |
| <input type="checkbox"/> Form 990-BL | <input type="checkbox"/> Form 990-T (sec. 401(a) or 408(a) trust) | <input type="checkbox"/> Form 5227 |
| <input type="checkbox"/> Form 990-EZ | <input type="checkbox"/> Form 990-T (trust other than above) | <input type="checkbox"/> Form 6069 |
| <input type="checkbox"/> Form 990-PF | <input type="checkbox"/> Form 1041-A | <input type="checkbox"/> Form 8870 |

- The books are in the care of ► **THE ORGANIZATION**

Telephone No ► **703-682-9320**

FAX No. ►

- If the organization does not have an office or place of business in the United States, check this box ☐
- If this is for a Group Return, enter the organization's four digit Group Exemption Number (GEN) _____. If this is for the whole group, check this box ☐. If it is for part of the group, check this box ☐ and attach a list with the names and EINs of all members the extension will cover.

- 1 I request an automatic 3-month (6-months for a corporation required to file Form 990-T) extension of time until **FEBRUARY 15, 2009**, to file the exempt organization return for the organization named above. The extension is for the organization's return for:
- ☐ calendar year _____ or
- ☒ tax year beginning **JUL 1, 2007**, and ending **JUN 30, 2008**

- 2 If this tax year is for less than 12 months, check reason: ☐ Initial return ☐ Final return ☐ Change in accounting period

3a If this application is for Form 990-BL, 990-PF, 990-T, 4720, or 6069, enter the tentative tax, less any nonrefundable credits. See instructions.	3a	\$
b If this application is for Form 990-PF or 990-T, enter any refundable credits and estimated tax payments made. Include any prior year overpayment allowed as a credit.	3b	\$
c Balance Due. Subtract line 3b from line 3a. Include your payment with this form, or, if required, deposit with FTD coupon or, if required, by using EFTPS (Electronic Federal Tax Payment System). See instructions.	3c	\$ N/A

Caution. If you are going to make an electronic fund withdrawal with this Form 8868, see Form 8453-EO and Form 8879-EO for payment instructions.

LHA For Privacy Act and Paperwork Reduction Act Notice, see Instructions.

Form **8868** (Rev. 4-2008)

INSTITUTE FOR JUSTICE - CASE UPDATE

July 2008

EDUCATION

Cain v. Horne

The Arizona Education Association, the ACLU of Arizona, the People for the American Way, three Arizona taxpayers, and five other public education groups filed a lawsuit in 2007 challenging Arizona's new voucher programs for children with disabilities and children in foster care. The plaintiffs claimed that these programs violate the Arizona Constitution's Blaine Amendments and education article. IJ successfully intervened on behalf of families wanting to use the programs, defending parents' rights to choose which schools best suit their children's needs. The trial court ruled in favor of keeping the programs, but Division 2 of the Arizona Court of Appeals declared the programs unconstitutional on May 15, 2008. We filed a Petition for Review with the Arizona Supreme Court on June 19, 2008. While the decision to review an appellate ruling is discretionary, we are hopeful that the Supreme Court will elect to review the decision, especially in light of their June 27, 2008, order allowing the programs to continue operating for the next school year while the issue is being deliberated in the courts.

Green v. Garriott

In September 2006, the ACLU of Arizona (partnered with the Arizona School Boards Association and the Arizona Center for Law in the Public Interest) filed a lawsuit on behalf of several Arizona taxpayers, challenging Arizona's new corporate tuition tax credit. The ACLU made three claims in their suit: (1) that the program violates Arizona's Blaine Amendment; (2) that the program violates Arizona's education article; and (3) that the tax credit violates the Establishment Clause. IJ filed a motion to dismiss the case pursuant to *Kotterman v. Killian*, a 1999 Arizona Supreme Court precedent secured by IJ that successfully defended Arizona's individual tuition tax credit from a nearly identical legal challenge. The state of Arizona filed a similar motion to dismiss. The trial court granted both motions on March 7, 2007, but the case was appealed, and has been further delayed due to a procedural technicality (the plaintiffs failed to serve the speaker of the House and Senate president with copies of the briefs). The case will be reassigned to another panel of judges to decide the merits of the case.

Winn v. Garriott

In this suit, IJ is fighting for choice on behalf of parents, children, and the Arizona School Choice Trust (a scholarship-granting organization) against a collateral attack filed by the ACLU against Arizona's scholarship tuition tax credit. In March 2005, IJ filed a motion for dismissal, arguing that (1) the ACLU taxpayer plaintiffs lack standing to bring this challenge; (2) *res judicata* bars this litigation because the same issues were fully

litigated in the Arizona Supreme Court; and (3) under the U.S. Supreme Court's decision in *IJ's Zelman* case the plaintiffs fail to state a legally cognizable claim. The District Court dismissed the case on the ground that *Zelman* precluded the current litigation. The District Court also granted a motion to intervene, filed by the Alliance Defense Fund on behalf of the Arizona Christian School Tuition Organization. The ACLU appealed the decision to the Ninth Circuit U.S. Court of Appeals in April 2005, and oral arguments were heard in January 2008.

FIRST AMENDMENT

City of Gilbert v. James Torgeson

This case involved the right of small businesses to employ "sign walkers" to communicate with potential customers. The town of Gilbert cited Jim Torgeson for operating a sign-walker business and hauled him into Traffic Court, where IJ successfully motioned for the dismissal of the case. In response to this victory, the town attorney's office asked that IJ not refile the suit in Superior Court. Instead, the town promised to re-write the town code to allow sign-walkers and offered our client Jim Torgeson a spot in their "stakeholders" group, which will meet to discuss the specifics of the new code.

Epoch Design, LLC (d/b/a Futon Factory), et al. v. City of Lynnwood

This case challenged the city of Lynnwood's ban on portable signs containing certain kinds of commercial and non-commercial speech. IJ-WA represented the owners of the Futon Factory, a small chain of family-owned stores in the Puget Sound area that employed a person on weekends to stand on the side of the street with signs advertising the business. After allegedly receiving numerous verbal warnings from a Lynnwood Code Enforcement Officer that their sign was in violation of the Lynnwood Municipal Code (LMC), the city issued a "Civil Penalty Order," on February 24, 2004, alleging that the continued use of a sign-carrier violated the provisions of the LMC. The owners immediately appealed the Civil Penalty Order, but on June 3, 2004, the Hearing Examiner issued an Order of Summary Dismissal. In response, IJ-WA stepped in, filing a Land Use Petition Act (LUPA) appeal in Snohomish County Superior Court on June 22, 2004, and soon thereafter filed an amended complaint to add a civil rights claim and a claim under the Washington Uniform Declaratory Judgments Act (UDJA). On August 11, 2004, the Superior Court granted the city's motion to dismiss the LUPA claim, but left the other two claims intact. The parties then agreed to a stipulation staying the enforcement of the ordinances and holding the case in abeyance, in order to await a decision in the *Ballen v. Redmond* case (another IJ case) at the Ninth Circuit. In light of IJ's September 2006 victory in *Ballen*, the city agreed to enter into a stipulated consent judgment, which acknowledged the unconstitutionality of the sign ordinance and enjoined its enforcement. The consent judgment was presented to the court in early August 2007, and the court entered it on August 14, 2007. This case is concluded.

Independence Institute v. Coffman

This is a First Amendment challenge to campaign finance laws as applied to ballot initiative campaigns in Colorado. IJ asserts three challenges: (1) we claim that the definition of “issue committee” is vague and overbroad, because it turns on whether a group has “a major purpose” of supporting or opposing a ballot issue, and the phrase “a major purpose” is not clearly defined; (2) we claim that the disclosure laws that apply to issue committees unconstitutionally burden rights to speech and association; and (3) we claim that the disclosure laws unconstitutionally infringe the right to anonymous speech and association.

This case arose after our client, the non-profit Independence Institute (I.I.), ran a series of radio ads criticizing two tax initiatives on the 2005 ballot and was sued in a private complaint proceeding, which argued that I.I. failed to register as an “issue committee” under Colorado law and violated disclosure laws. Appalled at the speech-chilling implications of this application of campaign finance laws, I.I. filed a constitutional challenge to these laws in state court while simultaneously defending its position in an administrative proceeding. Although it prevailed in the administrative proceeding—with the Administrative Law Judge concluding that it did not have “a major purpose” of issue advocacy—it maintained its constitutional challenges in state court. In the spring of 2007, the trial court ruled against I.I. on all claims, concluding that the definition of issue committee is not vague or overbroad, that I.I. lacked standing to assert its unconstitutional burden challenge to the disclosure laws, and that the disclosure laws did not violate I.I.’s rights to anonymous speech and association. We have appealed the decision and await oral argument.

Martin, et al. v. Brewer, et al.

In this case, IJ is representing Arizona’s state treasurer Dean Martin and two independent political groups (the Arizona Taxpayers Action Committee and the Arizona Free Enterprise Club’s Freedom Club PAC) in a two-pronged First Amendment challenge to the constitutionality of the Arizona Citizens Clean Elections Act. In response to this challenge, the Arizona Center for Law in the Public Interest and the Brennan Center for Justice have intervened as defendants on behalf of a government-funded candidate and the Clean Elections Institute. Our first claim is that the Act violates the rights of privately funded candidates who choose to opt-out of the “Clean Elections” program, meaning they’ll take no public funding and will therefore be exempted from the Act’s expenditure limits. Our second legal claim is that the scheme violates the free speech rights of individuals and independent groups that support privately funded candidates, effectively drowning out their voices by providing the “Clean Elections” candidates with a dollar-for-dollar match for all monies raised by private candidates who exceed the Act’s expenditure limits. The District Court dismissed the case, but IJ appealed to the Ninth Circuit, which, after initially dismissing the entire case as moot, ultimately reconsidered, and reversed the District Court’s dismissal of our claims. The District Court granted our motion to amend the complaint to add the two independent

groups to the lawsuit and to reflect changes to the public financing scheme adopted by the Arizona Legislature while the case was pending appeal, but denied our motion to vacate its prior judgment of dismissal. This denial of vacatur is currently under appeal to the Ninth Circuit, and discovery has begun in the District Court.

Neighborhood Enterprises v. City of St. Louis

IJ stepped in to fight for justice when the city of St. Louis cited Sanctuary In The Ordinary (“Sanctuary”), a non-profit, low-income housing provider, and Neighborhood Enterprises, Sanctuary’s property manager, for violating the city’s sign code by painting a mural on one of its buildings protesting the city’s eminent domain practices. Sanctuary has had 24 of its properties taken by eminent domain for private development, and the property on which they painted the mural had been declared blighted (a sure sign of imminent taking). The city informed Sanctuary that it needed a permit for its mural, and gave instructions on how to obtain one. Sanctuary submitted a permit application which was, in turn, denied by: (1) the city’s Division of Building and Inspection (B&I), the agency with authority over sign permits issuance; and, separately, (2) the Land Clearance for Redevelopment Authority (LCRA), the entity charged with redeveloping the “blighted” area in which the mural is located. Sanctuary pursued administrative appeals of the B&I and LCRA denials. Both appeals were denied, so Sanctuary then petitioned for judicial review of the two administrative decisions in state court, coupling each petition for judicial review with a civil rights complaint alleging free speech violations under the U.S. and Missouri Constitutions. The city and LCRA removed the cases to federal court, and then moved to dismiss the case involving the LCRA’s denial. The trial court granted this motion, so IJ appealed to the Eighth Circuit, which heard oral argument on June 11, 2008, but has not yet ruled. Meanwhile, the case against the city and the Board of Adjustment (the bodies responsible for denying Sanctuary’s administrative appeals) continues at the trial court. On March 26, 2008, the city and Board of Adjustment filed a counterclaim against Sanctuary, seeking an injunction ordering the removal of the mural. We moved to dismiss the counterclaim on April 7, and the court has scheduled the case for trial on March 23, 2009.

Pagan v. Fruchey, et al.

In the summer of 2003, attorney Chris Pagan of Glendale, Ohio, accepted a 1970 Mercury Cougar from a client in lieu of fees. He decided to put the car up for sale, and because his driveway is obscured, he parked the car on the public street directly in front of his home and placed a “for sale” sign in its window. Soon thereafter, Pagan was notified by a police officer that it is illegal to put a “for sale” sign in the window of a car while it is parked on a public street. After unsuccessfully trying to work out a compromise, Pagan sued the city of Glendale in federal court, arguing that the government cannot tell him to take down his sign based on its content. He lost, both in trial court and on appeal to the Sixth Circuit. In 2006, IJ took over Pagan’s cause, persuading all 15 judges of the Sixth Circuit to rehear the case in a proceeding known as *en banc* review. After re-briefing and re-argument, in the summer of 2007 the *en banc*

court handed down a narrow 8-7 decision in our favor, declaring the ordinance unconstitutional, reversing the district court decision, and remanding the case to the trial court for further proceedings. The city petitioned the U.S. Supreme Court for review, but was denied. On remand, we argued that Pagan should be awarded damages and granted final judgment. Glendale, on the other hand, argued that there should be a trial. Basically, Glendale wanted to do the whole case over again. The judge disagreed, and on May 1, 2008, entered final judgment for our client and an award of nominal damages. Glendale appealed the grant of final judgment, and briefing is set for the fall of 2008.

Sampson v. Coffman

IJ is currently representing six residents of Parker North, Colo., who were sued in a private enforcement proceeding after putting up lawn signs and otherwise speaking out against the proposed annexation of their neighborhood into the nearby town of Parker. The plaintiffs assert three challenges to the laws that regulate ballot issue campaigns: (1) the private enforcement provision, which allows “any person” to enforce the campaign finance laws against those thought to have violated the laws, violates the First Amendment by delegating unchecked enforcement power to private citizens; (2) the disclosure laws for ballot issue advocacy unconstitutionally burden rights to free speech and association; and (3) the disclosure laws violate rights to anonymous speech and association. IJ filed suit against the Colorado Secretary of State in September 2006. Summary judgment briefing was completed on January 11, 2008; oral argument was held on April 15, 2008; and the parties submitted supplemental briefing on the question of whether the annexation was a “ballot issue or ballot question” covered by the campaign finance laws in June. We are currently awaiting a decision by the trial court on the motions for summary judgment.

San Juan County, et al. v. No New Gas Tax, et al.

On June 22, 2005, San Juan County and the cities of Seattle, Kent, and Auburn filed an enforcement action under Washington’s Fair Campaign Practices Act (FCPA) against the political committee NoNewGasTax.com (NNGT), alleging that NNGT had failed to report, as in-kind campaign contributions, on-air talk radio discussions of the campaign and the initiative measure it was formed to promote. Two weeks later, the Thurston County Superior Court issued a preliminary injunction ordering NNGT to report on-air discussions of the initiative as in-kind contributions. IJ-WA then took the case, filing counterclaims on August 9, 2005. On August 25, the municipalities moved to dismiss the counterclaims and requested that the court dismiss their own remaining claims seeking a permanent injunction and penalties. On October 26, NNGT’s counterclaims and the municipalities’ remaining claims were dismissed. The court also denied the municipalities’ request for attorneys’ fees. IJ-WA sought direct review of the dismissal in the Washington Supreme Court, and the municipalities sought review of their denial of attorneys’ fees. The court accepted direct review, and we argued the case to the Washington Supreme Court on June 8, 2006.

Nearly one year later, the Washington Supreme Court unanimously reversed the trial court, holding that the talk radio hosts' discussions of the initiative were not contributions under Washington's campaign finance law. The Supreme Court reinstated NNGT's constitutional counterclaims against the municipalities and remanded the case back to the trial court so that NNGT could pursue the counterclaims. The case has been reassigned to a new judge on remand, and trial is scheduled for April 2009.

Skynet Corporation d/b/a ZeroBrokerFees.com v. Slattery, et al.

On behalf of ZeroBrokerFees.com, an online advertiser from Massachusetts, IJ filed a federal challenge to New Hampshire's Real Estate Practice Act, which requires Internet and print advertising companies to obtain a real estate broker's license before listing or advertising New Hampshire properties for sale. We raised three complementary First Amendment claims: prior restraint, viewpoint discrimination, and commercial speech. The court issued its order in late March 2008, recognizing the important First Amendment issues at stake. Thus, it issued a ruling that vindicates our clients' rights to conduct their business in New Hampshire and provides them with security from future prosecution. The court did, however, avoid our constitutional argument by reading the Real Estate Practice Act to include websites in the exemption for "newspapers or other publications of general circulation." This case is concluded.

SpeechNow.org v. FEC

This is a challenge to the application of contribution limits and various registration and reporting requirements as applied to a citizen group, SpeechNow.org. SpeechNow.org wants to produce and broadcast television advertisements expressly advocating the election or defeat of candidates based on their stances on free speech and campaign finance issues. They are independent of any candidates, make no contributions to candidates or party committees, and as a result pose no concerns about actual or apparent corruption that would justify the imposition of contribution limits. IJ is representing SpeechNow.org, David Keating, its president and treasurer, and potential donors Ed Crane, Fred Young, Brad Russo, and Scott Burkhardt, each of whom has pledged to give money to SpeechNow.org if they are able to do so free of contribution limits.

Under federal campaign finance laws, SpeechNow.org is considered a "political committee," because it intends to spend or receive more than \$1,000 to influence the outcome of federal elections. Political committees are subject to onerous registration and reporting regulations as well as a \$5,000 annual limit on contributions from any one person. Because SpeechNow.org poses no risk of actual or apparent corruption, the government has no legitimate reason to limit the funds it can raise. IJ filed the case along with a motion for preliminary injunction on February 14, 2008. Oral argument was held on the motion on April 11, 2008, which was denied on July 1, 2008. The parties have agreed to a schedule under which discovery will be completed on September 29, 2008, followed by motions to certify the case to the D.C. Circuit in October and November.

Swift and Wilkinson v. Clarksville Property Rights Coalition

In Clarksville, Tenn., IJ is representing a group of local activists that ran an advertisement in the local newspaper criticizing local politicians and developers for supporting a redevelopment plan involving eminent domain. Six days after the ad ran, a city councilor (who is a developer) and another developer sued the group for libel, asking for \$500,000 in damages. We believe that the lawsuit is frivolous and part of a disturbing trend of politicians and developers suing home and business owners who speak out against eminent domain abuse. IJ has filed a motion to dismiss the libel lawsuit, and that motion is currently pending.

Tait v. City of Philadelphia

IJ is representing three individual tour guides who want to talk to their fellow citizens about their city's history, government, and significance without asking the government's permission. The city of Philadelphia has made it illegal to give a tour of the center city area (roughly a square mile around Independence Hall) without first passing a test and obtaining a government license. Licensees are required to submit to various requirements (including continuing-education courses), and anyone giving an unlicensed tour may be fined up to \$300 per violation. It is, in other words, illegal to talk about the Liberty Bell. While the First Amendment argument is perfectly straightforward—this is a content-based restriction on our clients' speech—this case represents yet another instance of the government attempting to squelch speech in the guise of "professional regulation," a trend IJ has fought for more than ten years with cases like *Taucher v. Born* (in which we represented publishers of commodity-trading information) and our representation of real-estate website publishers in California and New Hampshire. IJ filed a complaint on July 2, 2008, and the city's response is anticipated on July 28, 2008.

First Amendment Amicus Briefs

Rickert v. Public Disclosure Commission

The Washington Public Disclosure Commission (PDC) fined Green Party Candidate Marilou Rickert for violating a statute that prohibited the sponsoring, with actual malice, of political advertising containing false statements of material fact regarding a candidate for public office. Rickert defended herself on First Amendment grounds, but the superior court affirmed the PDC's order. The Court of Appeals reversed, holding the statute unconstitutional. The PDC petitioned for review in the Washington Supreme Court, which the court granted. IJ submitted an amicus brief arguing that the statute chills the exercise of First Amendment rights. The case was argued to the Washington Supreme Court on June 29, 2006. On October 4, 2007, the Court held the statute unconstitutional and, on December 4, 2007, denied the PDC's motion for reconsideration, so the case is concluded.

State ex rel. Washington State Public Disclosure Commission v. Washington Education Association

Washington's Public Disclosure Commission (PDC) brought an enforcement action against the Washington Education Association (WEA) concerning its use of "agency shop fees" to fund union political activity. Agency shop fees are the fees that non-union employees ("non-members") are required to pay the union for its collective bargaining function. The PDC claimed the WEA violated RCW 42.17.760, which provided that a "labor organization may not use agency shop fees paid by an individual who is not a member of the organization to make contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual." Even though the statute clearly required a union to affirmatively obtain consent from a non-member before using her agency shop fees on political activities, the WEA had an undisputed policy of assuming consent. The WEA defended its practice by claiming that requiring unions to affirmatively obtain the consent of non-members would unconstitutionally burden union free speech rights. In a 6-3 decision, the Washington Supreme Court agreed.

The Washington Attorney General petitioned the U.S. Supreme Court for *certiorari*. We filed an amicus brief in support of the petition on August 14, 2006, and the Court granted *certiorari* on September 26, 2006. We then filed another amicus brief on the merits on November 8, 2006. On June 14, 2007, the U.S. Supreme Court unanimously reversed the Washington Supreme Court's decision and held that it does not violate a public-sector union's First Amendment rights for the State to require the union to obtain affirmative authorization from non-members before using the non-members' agency shop fees to fund political activity.

Tennessee Secondary School Athletic Ass'n v. Brentwood Academy

With help from our Human Action Network members and attorneys at the Wiley Rein law firm in Washington, D.C., IJ submitted an amicus brief to the U.S. Supreme Court in a case involving the abusive application of a high school athletic recruiting regulation in a manner that seemed clearly designed not to prevent genuine recruiting abuses, but instead to stifle the free flow of information about educational options. At issue was whether a Tennessee private school, Brentwood Academy, could be disciplined by a quasi-private state athletic association for sending flyers to students whose parents had already signed enrollment contracts with the school (but who had not actually begun attending the school) inviting the students to spring football practice. The association considered this a violation of the regulation against using "undue influence" to "secure or retain a student for athletic purposes" and both fined and suspended Brentwood Academy from the association. In ruling for the athletic association, the Supreme Court essentially ignored the free speech issues in the case by finding that the athletic association was a private (not state) actor and that Brentwood's agreement to join the association—which

includes being bound by its recruiting rules—therefore did not implicate the First Amendment.

ECONOMIC LIBERTY

Bell v. Pinal County Board of Supervisors

In September 2006, Pinal County, Ariz., cited client Dale Bell, owner of the popular local steakhouse San Tan Flat, for violating a county zoning ordinance requiring dance halls to be run in completely enclosed structures. Because Mr. Bell allows his patrons to dance to the live music performed nightly at his restaurant, the county argued that the designation of his business had changed from a restaurant to a dance hall, which cannot be run outdoors. IJ-AZ filed an administrative appeal in the Pinal County Superior Court on June 6, 2007; in addition to an administrative appeal on statutory interpretation grounds, we included IJ's traditional economic liberty claims, as well as a "class of one" claim under the Fourteenth Amendment's Equal Protection clause. Judge O'Neil heard oral argument on April 30, 2008, regarding the administrative appeal issue, and ruled at the end of the hearing in our favor, declaring in regard to this case, "this has to stop, it should have stopped long ago." The judge ordered us to prepare and file proposed findings of fact, conclusions of law, and final judgment, which we filed on June 6, 2008.

Bhandari v. Nilsestuen

In this case, IJ seeks to vindicate the rights of Raj Bhandari, a gas station owner in Merrill, Wisc., who found himself facing possibly thousands of dollars in fines for the crime of offering discounts on gasoline—a violation of the state's minimum-markup law, which requires that retail gasoline be sold for at least 9.18% over the local wholesale cost. We filed a pair of expert reports (from Fred McChesney of Northwestern University and Todd Zywicki of George Mason University) detailing the way in which this law serves only to protect entrenched businesses from price competition, providing no protection whatsoever to consumers or the general public. The state provided a responsive expert report on July 16.

Boone v. Texas State Board of Veterinary Medical Examiners

This is IJ's second challenge to Texas' restrictions on equine dental practitioners. The two cases are similar, with the important exception that none of the clients in this new case ever received any cease-and-desist letters from the Board, and thus there can be no argument that there is an ongoing administrative process that must be completed before they can pursue their declaratory judgment action in court. The Board filed a motion to consolidate the two cases in an attempt to consign this one to the administrative process as well. We argued against this motion on July 17. The judge delayed her final ruling until August 17.

Brown, et al. v. Hovatter, et al.

In this case IJ is challenging a Maryland law that says only state-licensed morticians may own funeral homes and that forbids funeral homes from being owned as corporations. The district court handed down a mixed ruling in October 2007, finding that Maryland's ban on corporate ownership of funeral homes violates the dormant Commerce Clause but does not violate the Equal Protection or Due Process Clauses of the Fourteenth Amendment. Unfortunately, the district court's injunction does not cure the Commerce Clause violation, because although it requires Maryland to lift its arbitrary ban on corporate ownership of funeral homes, the state may nevertheless restrict ownership of those corporate funeral homes to state-licensed morticians only. Since that obviously would not cure the Commerce Clause violation (because the state may still discriminate against out-of-state businesses and persons by forbidding them from owning funeral homes in Maryland), we filed a motion for reconsideration in the district court, which was denied. Not to be deterred, we then appealed the district court's decision to the Fourth U.S. Circuit Court of Appeals, arguing that (a) we were entitled to a fully remedial injunction on the commerce clause ruling; and (b) that Maryland's restrictions on non-mortician ownership of funeral homes also violate due process and equal protection. The Morticians Board cross-appealed, arguing that the ownership restrictions were fully constitutional and that the district court erred in finding a commerce clause violation. Briefing is almost complete, and we expect to find out later this summer or sometime this fall whether the case will be set for oral argument.

Byrum v. Landreth

This case involves a challenge to a Texas law that allows anyone to practice interior design—without a license and with no registration requirements of any kind—but requires that people who wish to use the words “interior design” or “interior designer” to describe their services obtain what amounts to a free-speech license. IJ filed suit against the Texas Board of Architectural Examiners, which oversees interior designers and enforces the law in question, in May 2007. Shortly thereafter, we filed a combined motion for preliminary injunction and for summary judgment in the district court. The state responded with its own summary judgment motion, and the entire proceeding was referred to a magistrate judge who held a hearing on all three motions in January 2008. Despite finding that the Board had failed to meet its evidentiary burdens under the relevant constitutional test, the magistrate judge recommended that both summary judgment motions be denied and that the case proceed to trial following a normal discovery period. The district court accepted that recommendation and entered an order denying not only the summary judgment motions but the preliminary injunction as well. The denial of the preliminary injunction is immediately appealable, so we filed an appeal with the Fifth U.S. Circuit Court of Appeals in February 2008. Although the denial of a summary judgment is normally not appealable, we argued that the Fifth Circuit has pendent appellate jurisdiction to review the denial of the summary judgment motion because it was “inextricably intertwined” with the appealable preliminary injunction

order. We have just finished briefing the appeal and are waiting to hear whether the case will be set for oral argument.

Clemens v. Maryland State Board of Veterinary Medical Examiners

On June 10, 2008, IJ filed suit on behalf of Mercedes Clemens, a Maryland resident who practices massage on both humans and animals, and consequently found herself being whipsawed by two Maryland regulatory agencies. In February 2008, Clemens was contacted by the Maryland Board of Chiropractic Examiners and the Maryland State Board of Veterinary Medical Examiners. Although Clemens has specialized training in animal massage and is a licensed massage therapist, these boards consider animal massage to be “the practice of veterinary medicine,” and unless Clemens restricts her practice to massaging humans, they have threatened to revoke her massage-therapist license and charge her with the unlicensed practice of veterinary medicine, thereby subjecting her to thousand of dollars in fines. A letter from the president of the Veterinary Board even threatened non-veterinarians who practice animal massage with criminal prosecution. IJ believes that applying these rigid standards to the practice of animal massage is ludicrous, as the practice is safe and involves no invasive procedures or medication. The hands-on training required to learn the occupation can be acquired in a short time at one of the many private schools that teach animal massage, without attending four years of veterinary school and taking approximately on \$150,000 in educational debt. Our suit, therefore, challenges these requirements under the due process, equal protection, and anti-monopoly provisions of the Maryland Constitution.

Franzoy, et al. v. Templeman, et al.

On September 7, 2006, IJ filed suit in Albuquerque, N.M., against the New Mexico Interior Design Board, challenging the state’s interior design “title act” on First Amendment grounds. Defendants quickly acknowledged that the title law violates the First Amendment, and sought our agreement to a temporary injunction against enforcement of the law for the duration of the 2007 legislative session. The legislature then passed legislation (also signed by the governor) modifying the law to restrict access only to the title “licensed interior designer”—thus under the new law only those who are licensed by the state may say they are licensed by the state. This lawsuit resulted in a legislative change to New Mexico’s interior design title law, thereby resolving the First Amendment infirmity.

Hanley v. Structural Pest Control Comm’n

The Arizona Structural Pest Control Commission cited Richard Hanley for allegedly “advertising” and/or “offering to engage in” the business of structural pest control. Mr. Hanley owns and operates “I Cover Roof Vents,” which specializes in placing galvanized steel mesh caps over the vents and pipes on top of roofs to prevent roof rats (and other pests) from invading homes. The Pest Control Commission admitted that the work performed by Mr. Hanley’s business does not constitute the business of

structural pest control, and that he is thus free to have his employees climb onto roofs and secure the mesh on pipes without coming under the purview of the Commission. However, the Commission issued a cease and desist order, threatening fines because the flyers Mr. Hanley uses to advertise his business references “birds & rodents.”

IJ-AZ represented Rich Hanley at an administrative hearing in front of the Pest Control Commission, in which the Commission unanimously voted to vacate the cease and desist order and instructed Commission staff to draft a substantive policy statement that would avoid these types of prosecutions in the future. The Commission adopted such a statement at a subsequent meeting, and during this last legislative session, the Arizona Legislature terminated the Structural Pest Control Commission based in large part on the harassment of entrepreneurs like Richard Hanley.

Johnson v. Minnesota Board of Veterinary Medicine

On August 16, 2006, IJ-Minnesota sued the Minnesota Board of Veterinary Medicine (MBVM) on behalf of Chris Johnson, an entrepreneur who specializes in “floating” horses’ teeth and wants the freedom to make a living doing so. IJ-Minnesota raised the trio of Fourteenth Amendment claims and their state constitutional counterparts against the state board, since local courts have often interpreted the State Constitution as having a rational-basis test with bite that offers greater protection of economic liberty than the federal constitution. After nearly a week long trial, on June 20, 2008, Hennepin County District Court Judge Tony Leung ruled in favor of the defendants, holding that the regulations were constitutional.

Mitz v. Texas State Board of Veterinary Medical Examiners

IJ filed suit against the Texas Board of Veterinary Medical Examiners in August 2007, challenging a Texas law permitting only state-licensed veterinarians to perform equine dental work. We quickly moved for a temporary injunction, which was denied on the grounds that there was nothing really to enjoin since the Board had not yet taken any concrete steps to limit our clients’ ability to practice equine dental care. We then served written discovery requests on the Board, prompting it to set a hearing on its “Plea to the Jurisdiction,” which was a motion seeking to dismiss the case outright or else abate it while our clients went through an administrative process before the Vet Board. The trial judge refused to dismiss the case, but ordered it abated pending completion of the administrative proceedings. We appealed that decision, and are finishing up briefing and hoping to argue the case in the Austin Court of Appeals sometime this fall.

MPLS Taxi Owners Coalition v. City of Minneapolis, A New Star Taxi, Inc. Intervenor

The City of Minneapolis enacted an ordinance in 2006 ending the City’s (a) cap on the number of taxis allowed to operate in the city; and (b) the use of the “public convenience and necessity test” for new applications. Under the new ordinance, the City

has issued 90 new licenses and will authorize an additional 90 licenses until it eliminates the cap altogether in 2011. In response, a coalition of 53 holders of transferable taxi licenses sued the City on March 13, 2007, claiming that the reforms violated their rights by depriving them of the value of their taxi licenses in a secondary market, in which transferable taxi licenses were selling for up to \$25,000 due to the artificial scarcity created by the regulatory barriers to entry. In essence, their case is based on the notion that there is a constitutionally-protected property interest in the economic value of a license that is a byproduct of regulatory barriers to entry. IJ disagreed with this position and intervened in the case on behalf of a recipient of 12 of the new licenses, Luis Paucar, owner of A New Star Taxi, Inc.

On August 31, 2007, IJ argued that the court should dismiss the claimant's five counts because: 1) no court—state or federal—has ever held that anyone possesses a constitutionally-protected right to monetary gains that are the collateral effect of regulatory barriers to entry; 2) no case has held that the relaxation of regulations can cause a regulatory taking; and 3) the plaintiff did not sufficiently plead that the City engaged in invidious discrimination as required to raise a valid equal protection claim. On December 18, 2007, Federal District Court Judge James Rosenbaum ruled in favor of IJ's client, adopting the recommendation of Federal Magistrate Franklin Noel that all five counts of the Taxi Coalition's complaint should be dismissed. On January 16, 2008, the Taxi Coalition appealed the case to the Eighth U.S. Circuit Court of Appeals in St. Louis. The appeal has been fully briefed but a date for oral argument has not been set.

Nautical Tours

On July 26, 2006, IJ filed an application with the Cambridge (Mass.) License Commission seeking a jitney license for our client Erroll Tyler and his company Nautical Tours. Erroll plans to operate two state-of-the-art amphibious tour vehicles on the streets of Boston and Cambridge, and in Boston Harbor. Erroll had been turned down twice, but we attempted filing with the License Commission for a third time rather than commencing suit because our constitutional claims—should litigation become necessary—will focus on procedural issues. We must therefore go through the entire state law procedure before filing.

On September 21, 2006, the License Commission once again denied Erroll's application for arbitrary reasons. The Commission ruled, for example, that Cambridge does not need Erroll and that his business will not benefit the public. On September 28, 2006, we filed an appeal with the Massachusetts Department of Telecommunications and Energy, which has independent licensing authority. The DTE held a public hearing on our client's appeal on January 10, 2007. No one from the public appeared to oppose our license application, and no one intervened in the case to oppose the application. On March 21, 2007, we submitted our merits brief along with a substantial number of exhibits. We expected a decision within two weeks, but still have not yet heard from the DTE. One reason for the delay may be that in early April the DTE was dissolved and replaced with two separate agencies: the Department of Telecommunications and Cable,

and the Department of Public Utilities. Our Nautical Tours appeal is now before the new DPU.

In late April 2007, we also filed a separate administrative appeal with the new DPU in this case. It turns out that Nautical Tours needs a separate jitney license from the Massachusetts Department of Conservation and Recreation for the sole purpose of crossing the Longfellow and Harvard Bridges over the Charles River (which separates Cambridge and Boston). These bridges are under the jurisdiction of the DCR because the DCR controls the Charles River Basin. We filed a request for a jitney license in late February, and then a follow-up a month later, but never received a reply. On the 60th day following our initial application, we filed the statutorily required notice of appeal with the DPU. In June and July 2007, the DPU granted both of Nautical Tours' license applications. The major obstacle now is that Boston is apparently claiming the authority to require Nautical Tours to get a "sightseeing" license even though Nautical Tours vehicles will pass through Boston without opening its doors. We continue to work with Nautical Tours to secure this license.

Summer's Best Two Weeks v. Dept. of Conservation and Natural Resources, et al.

On April 4, 2006 IJ filed suit in the Pennsylvania Commonwealth Court against the Pennsylvania Department of Conservation and Natural Resources, the director of the Bureau of State Parks, and the Superintendent of Ohiopyle State Park, challenging the Department's arbitrary decision to revoke a non-profit summer camp's explicit, written permission to raft as a private boater on the Lower Youghiogheny River. For more than thirty accident-free years the camp had been conducting annual trips just like any other private boaters would be allowed to do, but the Department began to demand that the camp must use one of Ohiopyle State Park's licensed commercial outfitters rather than lead its own trips according to its custom. We challenged the Department's decision on due process grounds, relying on recent precedents in Pennsylvania's state courts that use a stronger version of the rational basis test to assess the constitutionality of arbitrary government denials of liberty. We are only pursuing claims under the Pennsylvania Constitution. We argued the case before a three-judge panel of the Commonwealth Court on April 7, 2008, and await a decision.

Swedenburg, et al. v. Kelly, et al.

This was a challenge to laws restricting the interstate direct shipment of wine under the U.S. Constitution's commerce clause. After ruling in our favor, the Supreme Court remanded the case back to the Second Circuit, which has still failed to take action on the remand despite motions by both sides, either to dismiss the case or to remand to the district court for further proceedings. The Second Circuit needs to determine whether a recently-enacted New York law allowing non-New York wineries to direct ship disposes of the case or whether some other remedy is in order.

Texas Computer Diagnostics

On June 26, 2008, IJ filed suit against the Texas Private Security Board on behalf of computer repair companies that are being forced to obtain a private investigations licenses to work on computers. The state now requires that anyone who engages in the “analysis of computer-based data ... for the purpose of discovering information related (generally) to the causes of events or the conduct of persons” must be licensed. The law criminalizes many tasks that are at the heart of computer repair—the analysis of data to figure out who or what damaged a computer. Consumers who use unlicensed companies are also subject to conviction for violation of this law, for up to one year in jail and a \$4,000 fine. Civil penalties of \$10,000 per “occurrence” may also attach. To obtain an investigator’s license, an individual must complete either a criminal justice degree or a three-year apprenticeship under a licensed investigator. Therefore, computer repair companies must either close for three years to complete the apprenticeship, or risk severe criminal and civil sanctions if they continue working.

We brought this case as an economic liberty challenge with a free speech component. All claims were brought under the Texas Constitution. We argue that the law violates Texans’ economic due process rights and the privileges and immunities clause of the state constitution. We also argue that the law, by prohibiting the act of telling a customer what happened to his or her computer, violates the state constitution’s guarantee that Texans are “at liberty to speak, write or publish [their] opinions on any subject[.]” The state has responded with a general denial and a plea to the jurisdiction.

Ventenbergs, et al. v. City of Seattle, et al.

IJ-WA filed suit in King County Superior Court on May 13, 2003, challenging the City of Seattle’s grant of territorial monopolies to Rabanco and Waste Management for the hauling of construction and demolition waste within the boundaries of the City. On February 23, 2004, the Superior Court issued a decision denying IJ-WA’s motion for summary judgment, instead granting summary judgment in favor of the City, Rabanco and Waste Management. On February 14, 2005, the Washington Court of Appeals upheld the trial court’s decision for the City, Rabanco and Waste Management, but IJ did not give up there. On March 16, 2005, IJ-WA filed a Petition for Review with the Supreme Court, and they granted review on January 4, 2007. IJ-WA filed its supplemental brief on February 5, 2007, and argued the case on March 22, 2007. On February 21, 2008, the court, in a 5-1-3 decision affirmed the court of appeals. In a very narrow decision, the court concluded that waste hauling is a government service provided by the City of Seattle and that the right to earn a living in private employment was not implicated. This case is concluded.

Economic Liberty Amicus Briefs

State of Alabama v. Lupo

Alabama had the most sweeping interior design “practice act” in the nation, which literally made it a crime to offer advice about purely aesthetic subjects such as throw pillows and paint colors without a license. That law was challenged on constitutional grounds by a local woman who had been fined by the Alabama State Board of Registration for Interior Design. IJ filed an amicus brief on behalf of a coalition of free-market-oriented interior designers urging the Alabama Supreme Court to affirm the trial court decision striking down the law. In a decision for economic liberty, the Alabama Supreme Court confirmed the trial court’s decision in October 2007, declaring the interior design practice act to be unreasonably overbroad.

Walsh v. City and County of Honolulu

On December 20, 2006, IJ-WA submitted an amicus curiae brief in the U.S. Court of Appeals for the Ninth Circuit in support of a group of plaintiffs challenging Hawaii’s requirement that applicants for public employment be residents of the State at the time of application. To simply apply for a job, a person had to (1) be physically present in Hawaii, (2) establish domicile in Hawaii, and (3) prove intent to permanently remain in Hawaii. IJ-WA’s brief argued that Hawaii’s policy violated Article IV, section 2 of the U.S. Constitution, the very purpose of which was to prevent discrimination against, and barriers to, non-residents in their pursuit of a livelihood. On May 1, 2007, Hawaii repealed the requirement that employment applicants be residents of the State. In light of this legislative fix, the Ninth Circuit granted an unopposed motion for vacatur due to mootness on August 1, 2007.

Yes on Term Limits, Inc. v. Savage

Oklahoma law prohibits any person who is not an Oklahoma resident from soliciting signatures from Oklahoma voters to place initiative or referenda on the ballot in that state. A local Oklahoma group seeking to get enough signatures to qualify their ballot measure question sued to be able to use professional out-of-state signature gatherers. The district court found for the State of Oklahoma, so the organization appealed to the Tenth Circuit, claiming that the law violated both the First Amendment and the right of American citizens to travel from state to state to practice their trade protected by Privileges and Immunities Clause of Article 4, § 2 of the U.S. Constitution. IJ’s amicus brief argued only the Privileges and Immunities Clause issue. The court has scheduled oral argument for September 2008.

PROPERTY RIGHTS

Brody v. Port Chester

In 2005, the Second Circuit held that when depriving someone of the right to challenge the taking of his property, (1) newspaper notice is inadequate and (2) the notice must say something to indicate that it is important to the person's future rights. The case was remanded to the trial court, which bifurcated the trial of due process and damages. In March 2007, the district court held a trial about whether Bill Brody had "actual notice" of the loss of his rights, and in July ruled in Brody's favor, holding that he did not have actual notice and that his due process rights were violated. The district court then held the trial on damages in December 2007. A decision is pending.

City of Long Branch v. Brower, et al.

In 1996, the city of Long Branch, N.J. embarked on a comprehensive redevelopment of its declining waterfront. While parts of the waterfront were run down, other areas were healthy and charming. The best part of the waterfront is a little neighborhood called MTOTSA (an acronym based on neighborhood street names), and is home primarily to working class families and retirees, some in their nineties. Between November 2005 and February 2006, Long Branch served condemnation notices on MTOTSA residents who had rejected offers to sell voluntarily, characterizing MTOTSA as "blighted" even though it is an ordinary neighborhood. Most of the MTOTSA residents pooled their money and hired local attorney Peter Wegener to represent them in an effort to defend their homes, while two other homeowners retained another experienced eminent domain lawyer.

IJ advised Wegener and helped write a brief in February 2006 arguing that the condemnations in this case should be examined during a "plenary hearing" (a special proceeding under New Jersey law for condemnations that is similar to a trial). Long Branch, on the other hand, presented the trial judge with briefs arguing that he should permit the condemnations to go forward on the basis of the allegations and evidence in the complaints. In late March 2006, we also attended an oral argument held on the issues raised in the briefs and organized a courthouse rally. That June, the Monmouth County Superior Court ruled that the City of Long Branch could invoke a bogus "blight" designation as an excuse for using its power of eminent domain to seize the neighborhood for "redevelopment." This decision gave Long Branch the green light to replace modest homes with fancier ones, and working-class families and retirees with rich and trendy professionals. Not only did the Superior Court sanction these kinds of condemnations, it refused to let the homeowners even present evidence that their homes are not "blighted."

On August 30, 2006, we joined with MTOTSA homeowners and Wegener to announce the appeal of the decision to the Appellate Division. Briefing in the appellate court occurred in the Spring-Summer of 2007, with oral argument finally held on May 14, 2008. New Jersey's Public Advocate, a government official charged with the

responsibility of making government more accountable to citizens, has taken on eminent domain abuse as an issue, filed a brief on the side of the homeowners, and was granted oral argument time. We await a decision.

CYAC v. National City

On September 25, 2007, IJ filed suit on behalf of the Community Youth Athletic Center (CYAC) in state trial court in San Diego County, alleging that National City's passage of an amended redevelopment plan—redesignating much of the city as blighted and reauthorizing eminent domain for the next 10 years—violated the California statutes and the California and federal constitutions. There was also a public records act claim. Due to a minor error in the content of the published notice about the lawsuit, the superior court granted judgment on the pleadings for National City on all claims. In order to challenge the court's decision, we had to file two appellate proceedings: a writ of mandate regarding the public records act claim and an appeal regarding all of the other claims. The appellate court then consolidated these two actions for argument. Briefing on the writ of mandate is already complete, and briefing on the appeal will be complete at the end of July 2008. We expect oral argument in the fall.

Gamble, et al. v. City of Norwood

This is a case in which IJ won a complete victory under the takings clause of the Ohio Constitution. In the most significant “public use” case since *Kelo v. City of New London*, the Ohio Supreme Court held that the takings of our clients' homes and businesses for private development was unconstitutional. After our victory, the case was sent back down to the trial court to resolve outstanding issues of damages. Two sets of our clients entered into settlements regarding their properties, and we had to withdraw from representation of the other set because of a potential conflict of interest. (The couple is getting divorced.) Thus, we expect no further involvement on any outstanding issues in this matter.

Kelo, et al. v. City of New London, et al.

Susette Kelo's little pink cottage—the home that became a national symbol of the fight against eminent domain abuse—has been once-and-for-all spared from the wrecking ball. Faced with eviction and the destruction of her beloved home, Susette put forward an idea that she had originally proposed when first threatened with eminent domain abuse and even before IJ became involved in the case: preserving the home and moving it. When she first proposed this idea, the New London Development Corporation (NLDC) rejected it. In June 2006, with IJ spearheading the negotiations and agreement, the City, NLDC and the State of Connecticut agreed to the move.

Susette and IJ considered several options for her home. In the end, we were able to work out a favorable agreement with a local property owner named Avner Gregory, who has long supported the Fort Trumbull folks. He agreed to donate land for the

reconstruction of Susette's house on a beautifully landscaped plot he owns close to downtown New London and close to the old courthouse where our eminent domain trial took place. Per our agreement with the authorities, the house was moved out of Fort Trumbull by the end of July 2007. It has been successfully reassembled on the donated land. (The house had to be taken apart to get it under the railroad trestle that separates Fort Trumbull from the rest of New London. Moreover, this permitted Avner and his contractor to better preserve and treat the old wood.) Avner plans on living in the home himself and treating it as the historic property it is. He will maintain the home, including its pink color, and we have placed a plaque on the property recognizing the home's historic importance. On June 21, 2008, we held a celebration and a ribbon-cutting at the new home close to the Kelo anniversary day (June 23).

Stewart, et al v. City of Red Wing

On November 15, 2006, IJ-MN filed a Fourth Amendment challenge to the City of Red Wing's rental inspection ordinance. Red Wing adopted an ordinance in early 2004 that made it illegal to operate rental apartments without an "operating license," and required landlords to agree to inspections of their rental properties when they applied for their operating license. If the landlord refused to allow the inspection, the ordinance instructed the City to withhold the operating license until the inspection occurred. Thus, the City's ordinance coerced consent to inspections by threatening landlords with the non-issuance of their operating license. If tenants refused, they risked eviction because the landlord would be unable to legally rent to them. Landlords operating rental units without a license risked misdemeanor charges, fines, and imprisonment. IJ-Minnesota represents seven landlords and three tenants in a declaratory judgment case originally filed in state court. Defendants in the case, the City, and two relevant officials removed the case to federal court, which held a hearing on the motions for summary judgment in April, after which the judge ruled that our clients did not have Article III standing. We filed a motion for reconsideration, requesting the court to remand the case back to state court.

While waiting for the federal hearing on summary judgment, the city filed a new warrant application in state court, and we filed yet another lawsuit in response, making most of the same constitutional claims plus an additional due process claim. We also asked for consolidation of the state court action that we had brought with the warrant application the city had brought. On May 20, 2008, the state court ruled that the proposed warrants were unconstitutional because there was no restriction on the use of information—including photographs—obtained in the search. The court also consolidated the various pending actions, and we plan to move forward with a new discovery schedule that the state court recently issued.

Property Rights Amicus Briefs

Brutsche v. City of Kent

IJ filed an amicus brief in a Washington Supreme Court case concerning, among other things, whether damage to an innocent third-party's property during the execution of a search warrant is a compensable "damaging" of property under Article I, section 16 of the Washington Constitution. The City of Kent sent a SWAT team to the property of Leo Brutsche in order to execute a warrant concerning Mr. Brutsche's son's alleged drug activity. The team used battering rams, causing extensive damage to the doors and windows, yet no evidence was found and no charges were ever brought. Mr. Brutsche sought compensation for the property damage, which the City refused to provide, so he brought an action against the City, asserting claims for negligence, trespass, and just compensation under the Washington Constitution's takings/damagings clause. He lost in the trial court and court of appeals, but the Washington Supreme Court accepted review, at which point we submitted an amicus brief on the compensable damaging issue. IJ-WA staff attorney Michael Bindas participated in oral argument of the case, which was heard on January 17, 2008. We are awaiting a decision.

City of Pasco v. Shaw, et al.

On May 5, 2004, the Court of Appeals affirmed the constitutionality of a city ordinance mandating that landlords bring third-party inspectors into rental apartments in order to conduct searches of the property for compliance with the housing code. On September 17, 2004, IJ submitted our brief, along with a motion for leave to file such a brief. The court accepted it on October 1, and oral arguments were held October 21. The renters petitioned for review to the Washington Supreme Court and IJ-WA submitted an amicus in support of the petition. The Court accepted review. On September 13, 2007, the Washington Supreme Court issued a decision affirming the Court of Appeals, holding that because the inspection ordinance allows the use of private inspectors, it does not involve state action and there is therefore not a constitutional violation. This case is concluded.

Freeport Economic Development Corporation v. Western Seafood Co.

IJ filed an amicus curiae brief in a case concerning the application of post-*Kelo* legislative reforms to eminent domain proceedings that were already pending when *Kelo* was decided. In 2004, the City of Freeport filed a condemnation action against Western Seafood, a family-owned shellfish company, to make way for a privately-owned and-operated boat marina. The purported public use was "economic development"; there was no blight designation. Western Seafood challenged the condemnation on public use grounds, and the case was still being litigated when *Kelo* was decided. Very shortly after *Kelo*, the Texas legislature enacted eminent domain reforms that, among other things, bar condemnations for economic development. A year after the new law became effective, the trial court granted judgment in Western Seafood's favor, prohibiting the

condemnation. Freeport appealed to the Texas Court of Appeals, arguing that economic development is a public use under the Texas Constitution and that the post-*Kelo* legislative reforms should not be “retroactively” applied to already-pending condemnation actions.

On February 8, 2008, we filed an amicus curiae brief in support of Western Seafood. We argued that: (1) economic development is not a public use under the Texas Constitution; and (2) applying the post-*Kelo* legislative reforms is not a “retroactive” application of law because Freeport had no vested rights in Western Seafood’s property when the reforms were enacted. The Court of Appeals has not yet issued its decision.

Lawrence County v. Hamilton

In November 2007, IJ filed an amicus brief in a property rights case concerning proper state constitutional limitations on the power of eminent domain and how those considerations should be borne in mind when interpreting redevelopment statutes, even absent a taking. The facts are simple. Lawrence County declared undeveloped rural property “blighted” because it could be put to a higher use as a high-tech industrial park. The key question was whether the state’s blight statutes permitted harmless rural land in its natural state to be declared “blighted” under an economic development theory. Our brief argued two broad points. First, that a plain language interpretation of Pennsylvania blight statutes did not allow harmless rural property to be declared blighted simply because it could be put to a higher economic use. Second, we surveyed constitutional law from around the country to give the court a sense of the solid consensus, both pre-and post-*Kelo*, that state takings provisions do not allow eminent domain for economic development, even when economic development is disguised as blight remediation. The case has been argued and we now await the decision.

MISCELLANEOUS

Abigail Alliance for Better Access to Developmental Drugs v. Eschenbac

A petition for certiorari was filed with the U.S. Supreme Court from an en banc decision by the D.C. Circuit in *Abigail Alliance for Better Access to Developmental Drugs v. Eschenbac*. Abigail Alliance was named for Abigail Burroughs, a 21-year-old college student who died of cancer in 2001. In August 2007, the full D.C. Circuit ruled 8-2 that terminally ill patients do not have a constitutional right to access potentially life-saving drugs that the Food and Drug Administration had already found to be “safe” but had not yet decided that they were “effective.” Of course, the dying patients hoped the drugs would be effective, but they did not have time to wait for studies to prove that; experimental drugs would have been their only hope to save their lives. There was a very strong dissent in the case written by Judge Judith Rogers, joined by Judge Douglas Ginsburg. The case involved important constitutional issues concerning due process, guarantees of the Fifth and Fourteenth Amendments, the Ninth Amendment guarantee

that rights not enumerated in the Bill of Rights are nevertheless protected, and the Supreme Court's modern doctrine of "fundamental rights" jurisprudence.

IJ filed an amicus brief with the Court, urging it to take up the case. Our brief noted that lower courts lack a clear, consistent method for ascertaining whether constitutional rights should be deemed fundamental or non-fundamental. Now is the time, we argued, for the Court to not only protect the ability of individuals to try to save their own lives when confronted with life-threatening illnesses, but also to set forth more clearly how essential constitutional liberties should be characterized—and thus protected—under the Fifth and Fourteenth Amendments. As we further set forth in the brief, there is an ample and growing body of scholarly support recognizing a constitutional right to control personal medical decisions. The research comes from an ideologically diverse group of scholars, bound by a collective recognition that it is curious and wholly unjustified that courts recognize constitutional protection for the rights to abortion and to engagement in certain sexual practices, but not for the right of individuals to make decisions concerning the treatment of life-threatening illnesses, especially considering that these decisions are perhaps the most momentous and private decisions one can make.

The scholarship sets forth a powerful case that the Constitution and the Court's previous decisions in this area support, even demand, recognition for the right of medical self-determination. Unfortunately, in January 2008, the Court declined to hear the case.

District of Columbia v. Heller

In *D.C. v. Heller*, the Supreme Court heard a case asking it to interpret the Second Amendment "right to keep and bear arms" for the first time in more than fifty years. IJ filed a brief in this case detailing the voluminous historical evidence that the Framers of the Fourteenth Amendment, appalled at the rampant violence directed against newly-freed slaves and abolitionists in the Reconstruction South (often with the collusion and approval of local governments), sought to include the right to armed self-defense as one of the individual liberties protected by the Privileges or Immunities Clause. On June 26, 2008, the Supreme Court issued its decision, holding that the Second Amendment protects an individual right to own firearms and that D.C.'s gun ban was unconstitutional. The amicus brief filed by the Institute for Justice was one of only two briefs cited by the court.

Dupuy v. Samuels

Since 1995, Illinois' child-welfare agencies have compelled over 70,000 children/parents to move out of their homes based on unsubstantiated, uninvestigated allegations of abuse. The State coerces parents to agree to "safety plans" by threatening to place the child in foster care unless the parent "voluntarily" agrees, but the State then denies the parents any opportunity to challenge the basis for the safety plan (which the parents would have the right to do if the plan was not "voluntary.") The State then acts at

its leisure to investigate the allegation; while most safety plans last 30- to 60-days, some have lasted for 12 to 18 months. Tellingly, the State could not find a single example of a parent who had refused a safety plan, as any good parent would do almost anything to avoid sending their children to foster care. After an unfavorable decision by the Seventh Circuit, the Family Defense Center sought review of this decision by the U.S. Supreme Court. We filed an amicus brief asking the Court to grant certiorari in March. The U.S. Supreme Court denied certiorari in June.

Sole v. Wyner

IJ joined with Americans United for the Separation of Church and State, along with several other public-interest legal organizations, for an amicus brief in a case concerning when attorneys' fees may be awarded to plaintiffs as "prevailing part[ies]" in civil liberties cases. The case itself involved plaintiffs who won a preliminary injunction allowing them to conduct a nude protest on a public beach but failed to win a final judgment or permanent injunction in their favor. The government's position, however, was far broader than required by the case: both the state of Florida and the federal government argued that a plaintiff can never be awarded attorneys' fees without achieving a final judgment on the merits. This would mean, for example, that a government body could avoid paying attorneys' fees by simply repealing an unconstitutional law after a court granted a preliminary injunction but before the court reached a final judgment. IJ's brief urged the Court to reject the government's extreme position and instead adopt a reasonable middle ground by holding that fees cannot be awarded where a court issues a preliminary injunction erroneously—that is, where the court's final judgment rejects either the legal or factual basis for the earlier injunction—which is, in essence, what happened to the plaintiffs in this case. In a narrowly-written unanimous opinion (which neither adopted nor rejected the government's theory), the Court essentially accepted the line we urged in our brief.

Turken v. Gordeon

The Goldwater Institute's new litigation center is currently challenging the City of Phoenix's \$90 million subsidy to private developers to build CityNorth, which is essentially a shopping mall, as a violation of the Arizona Constitution's "Gift" Clause. The Institute lost in trial court, and the City of Phoenix and the Intervenor developer sought attorneys' fees in an amount of \$600,000. Their claimed basis for the award was that Goldwater made extrajudicial statements about the case, often times saying that they could not win under existing legal precedent—yet the case was litigated under the existing standards. Asserting that the motion for fees was an attempt to chill public interest litigation in Arizona, six Arizona organizations: IJ-AZ, the ACLU-Arizona Chapter, the Center for Arizona Policy, the Arizona Tax Research Association, the Sierra Club-Grand Canyon Chapter, and the Pacific Legal Foundation joined an *amicus* authored by Tim Hogan of the Arizona Center for Law in the Public Interest.

The main point of the amicus brief was that there is no inconsistency for Goldwater to state publicly that the existing legal standard is less than rigorous but actually argue in court that the facts of this case fit within that standard. Indeed, because public interest litigation often seeks to reform existing law it is often the norm to plead and litigate a claim as if it fell within the existing standard, thereby permitting a full development of the facts upon which an appellate court can carefully evaluate the continuing viability of the existing standard. Therefore, it is not at all remarkable, much less objectionable, that Goldwater would collect and present as many facts as possible for the trial court's consideration of whether the City's subsidy violated the existing standard. Even if Goldwater's objective is to argue for the reversal or modification of existing precedent, the chances of that occurring are almost negligible without a full factual record for an appellate court to evaluate. Contrary to the City's assertion, effective litigation of the continuing vitality of the existing legal standards would be pointless without fully developing the factual record surrounding the transaction. Courts do not decide to reverse or modify existing precedent based on abstract propositions but instead based upon facts that compel a reevaluation of existing law.

The Goldwater Institute, like many other public interest organizations, often has a dual purpose: to argue that the existing facts support their position and to develop a factual record upon which an appellate court could reverse or modify the standard for determining when a violation exists. The fact that the government would like public interest organizations to simply roll over in trial court and then appeal without a fully developed fact record is no basis for a fee award.